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Attacks against journalists and media freedom in Europe

Report¹

Committee on Culture, Science, Education and Media

Rapporteur: Mr Volodymyr ARIEV, Ukraine, Group of the European People's Party

Summary

The Council of Europe “Platform to promote the protection of journalism and safety of journalists” became operational in April 2015 and lists a high number of cases which have given rise to alerts on serious threats to media freedom in Europe. The Platform alerts and their governmental responses should be used for in-depth analyses of serious cases of attacks on journalists and media freedom, especially where the severity and frequency of such attacks indicate systemic problems in member States.

For instance, 16 journalists died violently in member States since January 2015 and some serious concerns expressed already in Resolution 2035 (2015) have to be reiterated again.

Despite the difficulties and serious challenges Turkey faces today, writers, journalists and cartoonists should not be tried in detention and emergency decrees should be reviewed as far as they order the arrest of writers and media staff as well as the public seizure of media companies and their assets.

Russian authorities should respect freedom of expression and information through the media also in areas which are de facto controlled by them outside the territory of Russia in violation of Resolution A/RES/68/262 of the United Nations General Assembly.

¹ Reference to committee: Doc. 13780, Reference 4136 of 22 June 2015.

Draft resolution²

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

2. Following Resolution 2035 (2015) on the protection of the safety of journalists and of media freedom in Europe, a few cases referred therein have been solved; the Assembly welcomes in particular the release from detention of Khadija Ismayilova in Azerbaijan and that, as suggested in Opinion No. 715/2013 of the Venice Commission, the Italian parliament is debating a government bill aimed at abolishing detention for cases of defamation through the media.

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

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

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

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

3.4. the past and continuing changes in media ownership in Georgia, which have an impact on media pluralism and diversity in Georgia.

4. The Assembly notes with sadness that 16 journalists died violently in member States since January 2015 and strongly calls on the competent prosecutors to thoroughly investigate the still not fully resolved deaths of:

4.1. Pavel Sheremet, a Belarusian journalist who was working for Ukrayinska Pravda and Radio Vesti in Ukraine when he died in a car explosion in Kyiv on 20 July 2016;

4.2. Mustafa Cambaz, a Turkish photojournalist with the newspaper Yeni Şafak who died of a gunshot to his head in Istanbul in the early hours of 16 July 2016 during the failed military coup d'état;

4.3. Naji Jerf, a Syrian journalist who had made several films about atrocities by both ISIS/DAESH and the current Syrian Government and was shot dead in Gaziantep (Turkey) on 27 December 2015.

5. Referring to Resolution A/RES/68/163 of the United Nations General Assembly on the safety of journalists and the issue of impunity, the Assembly reiterates its call on member States to fully investigate the deaths of Elmar Huseynov (2005) and Rafiq Tagi (2011) in Azerbaijan, Paul Klebnikov (2004) and Anna Politkovskaya (2006) in the Russian Federation, Dada Vujasinović (1994) and Milan Pantić (2001) in Serbia, Hrnt Dink (2007) in Turkey, Georgiy Gongadze (2000) and Vasil Klementiev (2010) in Ukraine as well as Martin O'Hagan (2001) in the United Kingdom.

6. Conscious of the difficulties and serious challenges Turkey faces with regard to the failed coup d'état, the terrorist attacks, the crisis caused by the enormous number of refugees and the war in Syria, the Assembly expresses its concerns regarding the dramatic situation of media and journalists in Turkey under the decrees passed during the state of emergency, in particular the dissolution and seizure of assets of media companies, the detentions of writers, journalists, editors and executives of media companies, as well

² Draft resolution adopted unanimously by the committee on 8 December 2016.

as the cases of deviations from criminal procedure law including access to a lawyer and the right to be informed promptly of the nature and cause of the criminal accusation.

7. The Assembly calls on the Turkish authorities:

7.1. to release from detention all journalists who have not been indicted for actively participating in terrorist acts, among others the writer and translator Necmiye Alpay, the writer and columnist Aslı Erdoğan, the journalist and writer Nazlı Ilıcak as well as the head of the board of the newspaper Cumhuriyet, Akin Atalay, its editor-in-chief Murat Sabuncu, its cartoonist Musa Kart, Kadri Gürsel and several of its columnists, and to immediately check and possibly improve the conditions of detention ; the Assembly welcomes the statement by the Minister of Culture and Tourism of Turkey, Mr Nabi Avci, that writers, journalists and cartoonists should not be tried in detention like murderers;

7.2. to review the emergency decrees as far as they order the arrest of writers and media staff as well as the public seizure of media companies and their assets;

7.3. to consider treating with priority the applications submitted to the Constitutional Court by media outlets or media staff;

7.4. to revise Articles 216, 299, 301 and 314 of the Penal Code in accordance with Opinion No. 831/2015 of the Venice Commission;

7.5. to revise Law No. 5651 on “regulation of publications on the Internet and combating crimes committed by means of such publication” in accordance with Opinion No. 805/2015 of the Venice Commission;

7.6. to strengthen the editorial independence of the state broadcaster Türkiye Radyo Televizyon in accordance with Resolution 1636 (2008) on indicators for media in a democracy;

7.7. to take into account the new country report on Turkey by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

8. Concerned about media freedom in the Russian Federation, the Assembly calls on the Russian authorities:

8.1. to drop its criminal charges for “separatism” and related offences against the Ukrainian journalists Anna Andrievska, Natalya Kokorina and Mykola Semena for their reports about the illegal occupation and annexation of the Crimean Peninsula by the Russian Federation;

8.2. to release Roman Sushchenko, a correspondent for the Ukrainian national information Agency UKRINFORM in France since 2010, who has been detained in Moscow on charges of “espionage” since 30 September 2016;

8.3. to exert its influence over the belligerent separatist military forces in eastern Ukraine in order to ensure that journalists can report safely from those areas in accordance with Resolution 1438 (2005) on freedom of the press and the working conditions of journalists in conflict zones;

8.4. to respond to the alerts published on the Platform to promote the protection of journalism and safety of journalists, and collaborate effectively with the Council of Europe in upholding media freedom.

9. The Assembly furthermore notes with deep concern that the protection of media freedom under Article 10 of the European Convention of Human Rights is also absent in other territories of member States which are de facto controlled by separatist regimes, namely in Nagorno-Karabakh of Azerbaijan, Abkhazia and South Ossetia of Georgia and Transnistria of the Republic of Moldova. Therefore, the Assembly pays particular tribute to the few investigative journalists who dare shedding light on the situation in those otherwise totally non-transparent and lawless areas.

10. Referring to paragraph 2.7 of Resolution 2064 (2015) on the situation in Hungary following the adoption of Resolution 1941 (2013), the Assembly welcomes progress in combating racist and xenophobic expressions in the media and calls on the Hungarian authorities:

10.1. to revise its media legislation in accordance with Opinion No. 798/2015 of the Venice Commission;

10.2. to reconsider, in accordance with Decision No. SA.39235 of 4 November 2016 by the Commission of the European Union, its Act XXII of 2014 on Advertisement Tax, which created a discriminatory tax on the publication of advertisements in the media in Hungary and hence has a negative effect on media freedom under Article 10 of the European Convention on Human Rights;

10.3. to ensure that advertising contracts by public authorities and state companies are concluded with all media in a transparent manner irrespective of their political position towards the government;

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

11. Noting the Recommendation of 27 July 2016 by the Commission of the European Union regarding the rule of law in Poland, which included also concerns over media legislation on the state broadcaster Telewizja Polska that had been adopted on 30 December 2015 and had become effective on 7 January 2016, the Assembly asks the Venice Commission to prepare an opinion on this law.

12. Noting the recent auction of private broadcasting licenses by the current Greek Government, the Assembly recalls that, while Article 10 of the European Convention on Human Rights allows States to require licenses for broadcasting, such restrictions need to be necessary in a democratic society and the award of such licenses has to be made in a transparent and reasoned process. Mere profitability concerns of private broadcasting are not a sufficient ground to revoke long existing licenses, especially as the digitalisation of broadcasting reduces the need, and thus the possibility, for governments to reduce the number of broadcasting licenses for technical reasons.

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

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

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

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

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

18. Welcoming the efforts of the Ukrainian authorities to establish a strong public broadcasting system, the Assembly emphasises the importance of continuing with no delays the full implementation of the public broadcasting law adopted by the Ukrainian Parliament in April 2014, and of transforming state media outlets into public service media.

19. Welcoming the fact-finding work on serious violations of media freedom by professional media organisations throughout Europe, the Assembly calls on member States, the European Union, the OSCE

and the United Nations to join forces with the Council of Europe and support its Platform to promote the protection of journalism and safety of journalists. The Platform alerts and their governmental responses should be used for in-depth analyses of serious cases of attacks on journalists and media freedom, especially where the severity and frequency of such attacks indicate systemic problems in member States.

A. Draft recommendation³

1. Recalling its Resolution (2017) on attacks against journalists and media freedom in Europe, the Parliamentary Assembly thanks the Committee of Ministers for having established the Platform to promote the protection of journalism and safety of journalists, which is a unique tool for professional media organisations to alert the Council of Europe on serious attacks against media freedom and for governments of member States to respond through the Committee of Ministers to these alerts.

2. With regard to the high number of serious cases brought to the attention of member States through this Platform, the Assembly recommends that the Committee of Ministers:

2.1. allocate adequate resources to the functioning of the Platform, allowing for targeted follow-up to the alerts;

2.2. remind member States of their commitment under Article 3 of the Statute of the Council of Europe to co-operate sincerely and effectively in the realisation of the work of the Platform;

2.3. include Belarus into the countries addressed by the Platform.

3. In view of the serious threats to media freedom in conflict zones in member States as well as under the states of emergency declared by member States, the Assembly invites the Committee of Ministers to hold a thematic debate on this subject and stands ready to co-operate in such a thematic debate.

³ Draft recommendation adopted unanimously by the committee on 8 December 2016.

B. Explanatory memorandum by the rapporteur, Mr Volodymyr Arieu

1. Origin and aim of the report

1. After the adoption of Resolution 2035 and Recommendation 2062 (2015) on the “protection of the safety of journalists and of media freedom in Europe”, the Council of Europe Platform to promote the protection of journalism and safety of journalists became operational and since then collects and disseminates alerts posted by its partner organisations.⁴ From April 2015 to 28 November 2016, there have been 230 alerts in 32 member States. 95 of those alerts have received an official reply by the member State concerned and 23 cases have been resolved. In total, 16 journalists were killed in that period.

2. These numbers show how important it is that media freedom and the safety of journalists are a priority for the Council of Europe. The aim of this report is to draw attention to the importance of media freedom for all member States of the Council of Europe as well as to raise awareness of the threats and attacks against journalists and media which have been reported to the Council of Europe through the Platform. I do hope that, through this report, the functioning of the Platform and dialogue with governments be improved.

3. The report is mainly based on the information published on the Council of Europe Platform. The cases presented in this report are structured by country and their chronology on the Platform. This report takes also account of the official replies and reactions by authorities in the member States concerned.

4. I am very grateful for having been invited to pursue fact-finding visits to Hungary (7-8 November 2016) and Turkey (13-14 November 2016). I wish to express my gratitude the parliamentary delegations of Hungary and Turkey, respectively, as well as their authorities and media representatives I was able to meet.

2. Follow-up to Resolution 2035 (2015)

5. Resolution 2035 pointed to several cases of threats to media freedom, which deserve our attention as to the follow-up given. I am also including under this section, the information I gathered during my fact-finding visits to Hungary and Turkey.

Azerbaijan

6. Resolution 2035 expressed concern over the detention of Khadija Ismayilova, the criminal charges against Emin Huseynov and the closure of Radio Free Europe/Radio Liberty in Baku in December 2014. On 25 May 2016, the Supreme Court of Azerbaijan reversed two of the initial four charges against Ms Ismayilova and reduced her prison sentence to a suspended term of three and a half years, which led to her release from prison. On 8 August 2016, the Court for Serious Crimes ordered Khadija Ismayilova's suspended term to be shortened to 2 years and 3 months. She is again working for Radio Free Europe/Radio Liberty in Baku today. Faced with prosecution under tax law, Emin Huseynov received asylum in Switzerland on 19 October 2015, after having been hidden secretly in the Swiss Embassy in Baku since mid-2014 and having been flown out of Azerbaijan by the Swiss Minister for Foreign Affairs in June 2015. He is publishing an Internet website and works in Switzerland writing about Azerbaijan.

7. Furthermore, Resolution 2035 referred to the Opinion No. 692/2012 of the Venice Commission on Azerbaijan's legislation pertaining to the protection against defamation⁵ and the observations of the Commissioner for Human Rights in this regard (23 April 2014) and urged the Azerbaijani Parliament to amend its legislation in order to bring it into line with Azerbaijan's obligations under the European Convention on Human Rights and with the legislative proposal made by the Plenum of the Supreme Court of Azerbaijan. Under the Programmatic Co-operation Framework by the Council of Europe and European Union, Azerbaijan hosted a roundtable on defamation legislation in Baku on 31 May 2016.⁶ No alerts concerning defamation cases in Azerbaijan have been posted on the Platform.

Georgia

8. Resolution 2035 noted with concern the controversial changes in media ownership in Georgia following the 2012 parliamentary elections and the recent adoption of legislation aimed at curbing the financial independence of private broadcasters and thus potentially influencing their editorial independence.

⁴ <http://www.coe.int/en/web/media-freedom>

⁵ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)024-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)024-e)

⁶ http://www.coe.int/en/web/freedom-expression/home/-/asset_publisher/RAupmF2S6voG/content/round-table-on-defamation-in-baku-azerbaijan

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On 10 June 2016, the Court of Appeals in Tbilisi upheld the City Court's decision concerning the ownership of the television channel Rustavi2, which granted 60 % of the shares of Rustavi2 to Kibar Khalvashi and 40% to the company owned by Mr Khalvashi.

9. On 22 June 2016, the Prosecutor General's Office of Georgia concluded, that the former founder of the television channel Rustavi 2, former manager of Mestro TV and former Georgian Ambassador to Russia, Erosi Kitsmarishvili had committed suicide on 15 July 2014.

Hungary

10. Resolution 2035 urged the Hungarian Parliament to pursue further reforms of its legislation in order to improve the independence of the media regulatory authorities, the State news agency and the public service broadcasters, to increase transparency and pluralism in the private media, as well as to combat racist expressions against ethnic minorities. In addition, it invited the Venice Commission to identify the provisions which pose a danger to the right to freedom of expression and information through the media in the Hungarian Act CLXXXV of 2010 on Media Services and Mass Media, the Hungarian Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content and the Hungarian tax laws on progressive tax on advertising revenue for media.

11. On 19-20 June 2015, the Venice Commission adopted its Opinion No. 798/2015 on Media Legislation (ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media) of Hungary.⁷ This opinion concluded that the Press Act should integrate the principle of proportionality in defining illegal media content and should make it clear that disclosure of journalistic sources may be ordered by the court only where alternative reasonable means of obtaining the information have been exhausted or are unavailable; the Media Act should restrain heavy sanctions seriously affecting normal functioning of a media outlet; the rules governing election of the members of the Media Council should be changed; the State advertisement budgets should be allocated according to objective and transparent rules, and private media should be allowed to publish paid political advertisements; Act XXII should be reconsidered in order to ensure that the tax burden is distributed in a non-discriminatory manner.

12. During my fact-finding visit to Hungary, I met on 7 November 2016 with Mr Miklos Haraszi, UN Special Rapporteur on the situation of human rights in Belarus and former OSCE Representative on Media Freedom as well as Mr Balázs Barabás, foreign correspondent in Hungary for Digi24 Romanian news television, Mr Marton Gergely, suspended Deputy Editor-in-Chief of Népszabadság newspaper, Mr Robert Kotroczo, News Director at RTL Klub, Mr Laszlo M. Lengyel, Executive Co-Chair of the Hungarian Press Union, Mr Balázs Nagy Navarro, Vice-President of the Independent Trade Union of Television and Filmmakers, and Mr Andras Petho, online journalist and founder direkt36.hu.

13. On 8 November 2016, I met with Mr Krisztián Kecsmár, State Secretary for EU and international cooperation of the Ministry of Justice and Ms Anikó Raisz, Senior Policy Adviser in the Ministry of Justice, Ms Monika Karas, President of the National Media and Info-Communications Authority, Mr András Koltay, Coordinating Member of the Media Council of the National Media and Info-Communications Authority and Ms Janka Aranyosné Börcs, Director-General of the Office for the National Media and Info-Communications Authority, as well as Mr Zoltán Kovács, Government Spokesperson.

14. During these meetings, reference was made to the close cooperation established in the past between the Hungarian Government and the Council of Europe Secretary General. Some regretted that the Secretary General's work had deviated from earlier reports by the Commissioner for Human Rights and the Venice Commission.

15. Opinion No. 798/2015 of the Venice Commission was studied by the Hungarian Government, which underlined that the independence of the National Media and Info-Communications Authority had been ensured through the long, non-renewable terms of office of its members. Regarding Act XXII of 2014 on Advertisement Tax, the EU Commission found in its Decision No. SA.39235 of 4 November 2016 a discriminatory taxation (as already found by the Venice Commission in its Opinion No. 798/2015) and thus a violation of the state aid norms of the EU.⁸

16. I also heard that State authorities and public companies placed no or less frequent advertising with media which criticised the Hungarian Government. As media companies had been bought by businessmen

⁷ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)015-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)015-e)

⁸ http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39235

who were supposedly close to leading members of the government, some emphasised that such acquisitions had been made with generous loans from state banks. In addition, those businessmen had their real economic interest in public contracts for major construction projects or other state procurement. Such practices would distort the media market and put unfair economic pressure on critical media.

17. Finally, I was informed that the state news agency Magyar Távirati Iroda was distributing news free-of-charge, which again distorted the media market by making it economically uninteresting to produce own news. The state news agency's news would be used by many media outlets in a uniform manner, thus reducing media pluralism drastically.

Italy

18. Referring to the Opinion N° 715/2013 on the Italian legislation on defamation by the Venice Commission of 6-7 December 2013,⁹ Resolution 2035 urged the Italian Parliament to resume consideration of its legislation in accordance with this opinion.

19. On 17 November 2016, I have been informed in writing by the Chairperson of the Italian Delegation to the Assembly, Mr Michele Nicoletti, that the Italian Chamber of Deputies and Senate are debating Government Bill No. 1119-B providing for an "Amendment to Law No. 47 of 8 February 1948 on the press, the Penal Code, the Code of Criminal Procedure, the Code of Civil Procedure and the Civil Code in relation to defamation, defamation by the press or other media, insult and conviction of the complainant as well as professional secret", with a view to abolishing detention for cases of defamation through the press.

Russian Federation

20. Referring to the United Nations General Assembly Resolution A/RES/68/262 of 27 March 2014, which declared illegal the annexation of the Crimean Peninsula by the Russian Federation, Resolution 2035 demanded that the Ukrainian film producer Oleg Sentsov should be transferred by the Russian authorities to the appropriate law-enforcement authorities of Ukraine without further delay. Having been abducted from Simferopol to Russia, Mr Sentsov has meanwhile been sentenced by a Russian military court in Rostov-on-Don to 20 years imprisonment in Yakutsk, Russia. His trial has been described by Amnesty International as a show trial.¹⁰

21. On 15 November 2016,¹¹ the Third Committee (Social, Humanitarian and Cultural) of the UN General Assembly approved a draft Resolution on the situation of human rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine), which noted "serious violations and abuses committed against residents of Crimea, in particular extrajudicial killings, abductions, enforced disappearances, politically motivated prosecutions, discrimination, harassment, intimidation, violence, arbitrary detentions, torture and ill-treatment of detainees and their transfer from Crimea to the Russian Federation, as well as reported abuses of other fundamental freedoms, including the freedoms of expression, religion or belief and association and the right to peaceful assembly". It urged the Russian Federation "to immediately release Ukrainian citizens who were unlawfully detained and judged without regard for elementary standards of justice, as well as those transferred across internationally recognized borders from Crimea to the Russian Federation".

22. Furthermore, Roman Sushchenko, a correspondent for the Ukrainian national information Agency UKRINFORM in France since 2010, was detained in Moscow on charges of espionage since 30 September 2016.

Turkey

23. Resolution 2035 welcomed the considerable reduction in the number of journalists detained in Turkey, but called for further legislative reforms concerning in particular Articles 216, 301 and 314 of the Turkish Penal Code which could lead to arbitrary applications against journalists. In fact, the number of detained or imprisoned journalists had been reduced from 66 in 2013 to 19 journalists in October 2014.¹² In December 2014, Turkish police arrested several senior journalists and media executives of the private newspaper

⁹ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)038-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)038-e)

¹⁰ <https://www.amnesty.org/en/latest/news/2015/08/crimean-activists-hauled-before-a-russian-military-court/>

¹¹ https://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/71/L.26

¹² Assembly report on Protection of media freedom in Europe (Doc. 13664), paragraphs 133 and 134

Zaman which was linked to the Islamic cleric Fethullah Gülen. In March 2016, a Turkish court upheld the decision by the Turkish authorities to take over the Zaman newspaper company.¹³

24. In Resolution 2035, the Assembly asked the Venice Commission to analyse the conformity with European human rights standards of Articles 216, 301 and 314 of the Turkish Penal Code and Law No. 5651 of Turkey, as well as their application in practice. On 11-12 March 2016, the Venice Commission adopted its Opinion No. 831/2015 on articles 216, 299, 301 and 314 of the Penal Code of Turkey.¹⁴ This Opinion acknowledged that some progress had been made in Turkey with respect to the application of the articles concerned, but concluded that the progress made was clearly insufficient: "All articles subject to the present opinion provide for excessive sanctions and have been applied too widely, penalising conduct protected under the ECHR, in particular its Article 10 and the related case-law as well as conduct protected under Article 19 ICCPR."

25. On 10-11 June 2016, the Venice Commission adopted its Opinion No. 805/2015 on Law No. 5651 on regulation of publications on the Internet and combating crimes committed by means of such publication ("the Internet Law").¹⁵ The opinion concluded inter alia that a list of less intrusive measures than that of access-blocking/removal of content should be introduced in the Law and that the system of access-blocking by a decision of the Presidency of Telecommunication without prior judicial review should be reconsidered.

26. Following the failed military coup d'état on 15 July 2016 and the declaration of a state of emergency, the Turkish Government has notified the Council of Europe of its derogation from the European Convention on Human Rights under Article 15 of that convention on 21 July 2016. Under this state of emergency and Presidential Decree No. 668, 45 newspapers, 15 magazines, 16 TV channels, 23 radio stations, 3 news agencies as well as 29 publishers and distributors have been closed by the government, according to Human Rights Watch.¹⁶ In addition, some 47 former staff members of the Zaman newspaper received arrest warrants after the failed military coup d'état. In total, more than 100 journalists were detained or imprisoned and the accreditation of some 330 journalists has been withdrawn by Turkish authorities, according to the Committee to Protect Journalists.¹⁷

27. A derogation from the European Convention on Human Rights under its Article 15 suspends neither its application, nor the jurisdiction of the European Court of Human Rights. In addition, the obligations under the Statute of the Council of Europe (ETS No. 1) continue to fully apply during a state of emergency.

28. The Council of Europe Commissioner for Human Rights produced a memorandum on the human rights implications of the measures taken under the state of emergency in Turkey on 7 October 2016.¹⁸ In his memorandum, Mr Nils Muižnieks found it "very problematic that the Turkish government already introduced amendments to many laws through emergency decrees, thus entirely bypassing ordinary legislative procedure. These include such crucial laws as the Anti-Terrorism Law, Code of Criminal Procedure or the Provincial Administration Law which are likely to have a direct impact on the protection of human rights in Turkey, an impact which would carry on after the lifting of the state of emergency. In the Commissioner's opinion, it would be appropriate to repeal these amendments at the end of the state of emergency and re-submit them, if necessary, to the Parliament for enactment, after a proper parliamentary procedure."

29. On 18 November 2016, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr David Kaye stated in his first conclusions on his country visit to Turkey:¹⁹ "Since the imposition of the state of emergency in July, the Council of Ministers has issued ten decrees with the force of law granting the Turkish authorities wide-ranging powers. According to the State of Emergency Law adopted in the early 1980s, the scope of such decrees should be limited to the emergency situation, but the decrees have increasingly broadened to terrorism beyond FETÖ, the Gülenist organization deemed terrorist under the law. Article 2(4) of Decree 668, issued on 25 July 2016, provides for the closing of numerous TV and radio stations, newspapers, periodicals and distribution companies under the accusation that they belong to, are connected to or are in contact with terrorist organizations posing a threat to national security. These decrees - that is decree no. 667 of 22 July 2016, decree no. 668 of 27 July 2016,

¹³ <https://cpj.org/2016/03/istanbul-court-to-appoint-trustees-for-zaman-today.php>

¹⁴ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e)

¹⁵ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)011-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)011-e)

¹⁶ <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>

¹⁷ <https://cpj.org/europe/turkey/>

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<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2950192&SecMo de=1&DocId=2391372&Usage=2>

¹⁹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20891&LangID=E>

decree no. 669 of 31 July 2016, decree no. 670 and no. 671 of 17 August 2016, decree no. 672, no. 673, and no. 674 of 1 September 2016, and decree no. 675 and no. 676 of 29 October 2016 - have also facilitated a number of restrictions to the right to freedom of media and expression, particularly the use of Decree 672 to crack down on the expression of those deemed terrorists, and the use of decree no.676 to suspend 370 associations on 11 November 2016. They have also reduced or eliminated altogether the ability to challenge detentions, enjoy the right of access to counsel, and travel abroad (by virtue of passport confiscations). The state of emergency decree nos. 667 and 668 established impunity for those responsible for removals of employees, among other things, preventing accountability for abuses.”

30. During my fact-finding visit to Ankara, I met with the UN Special Rapporteur David Kaye (Ankara, 13 November 2016) as well as Mr Hacı Ali Açıkgül, Director of the Bureau on Human Rights of the Ministry of Justice, Mr Şenol Göka, Director General of the Turkish Radio and Television Corporation (TRT) and Professor Engin Yıldırım, Vice-President of the Constitutional Court (Ankara, 14 November 2016). For clarification of facts, I submitted on 14 November the following written questions to the Ministry of Justice which promised to provide an answer before December 2016:

- How many journalists, writers and publishers are currently detained in prison for alleged links to terrorist organisations? How many of them have been informed of the criminal charges against them, and how many are currently under court trials?
- How many media companies have been closed or confiscated after the failed coup d'état of 15 July 2016? The assets (technical equipment, archives, audio-visual material, bank accounts and real estate) of how many of those companies are being auctioned, or have been taken over by whom?
- Articles 299 (defamation of the President) and 301 (public denigration of the Turkish Nation, the Turkish Republic, the Grand National Assembly, the judicial institutions, the military or police organisations) of the Turkish Penal Code require the approval of the Minister of Justice for legal prosecutions under these articles. How many requests for prosecution under Articles 299 and 301 has the Ministry of Justice received in 2015 as well as in 2016, and how many requests have been granted by the Minister of Justice?
- In its Opinion No. 831/2015 on Articles 216, 299, 301 and 314 of the Penal Code of Turkey, the Venice Commission stated: “All articles subject to the present opinion provide for excessive sanctions and have been applied too widely, penalising conduct protected under the European Convention on Human Rights, in particular its Article 10 and the related case-law, as well as conduct protected under Article 19 of the International Covenant on Civil and Political Rights.” What does the Minister of Justice, and the Turkish Government in general, intend to do in this respect?
- Following the emergency meeting of the High Council of Judges and Prosecutors on 16 July 2016, 2.745 judges and several members of the High Council were dismissed. This number seems to have been increased meanwhile. How many judges and prosecutors have been dismissed after the failed coup d'état of 15 July 2016, and how many have been recruited since?

31. In Istanbul on 14 November, I met Mr Nazım Alpman, President of the Istanbul Branch of the Progressive Journalists Association, Ms Yonca Cingöz, Foreign Relations Coordinator of the Turkish Publishers Association, Mr Gökhan Durmuş, President of the Journalists Union of Turkey, Mr Turgay Olcayto, President of the Turkish Journalists Association, Ms Sibel Güneş, Secretary General of the Turkish Journalists Association and Mr Niyazi Dalyancı, Board Member of the Turkish Journalists Association, Professor Murat Önok, Vice-President of the Turkish Press Council and Board Member of Transparency International, Mr Erol Önderoğlu, Representative of Reporters without Borders, Mr Andrew Finkel, Founding Vice-President of the journalism platform platform24.org, Mr Tora Pekin, Legal Counsel of Cumhuriyet newspaper, Mr Fikret İlkiz, lawyer, Mr Turgut Kazan, lawyer, and Mr Nedim Şener, journalist and writer.

32. I wish to thank the representatives of the Turkish authorities and the media representatives for their frank and very helpful discussions. Considering the extremely difficult situation in Turkey after the failed coup d'état and the continuing threats of terrorist acts, an increasing flow of refugees and the war in neighbouring Syria, media freedom is particularly vital to establish public trust in the democratic institutions of Turkey.

33. I was informed that the Constitutional Court had received approximately 40.000 applications after the failed coup d'état of 15 July 2015 and would probably receive some 100.000 applications by the end of 2016. I also heard of the legal insecurity of whether individual acts of public authorities under the emergency

decrees could be legally challenged before the Constitutional Court. In such circumstances, I find it very worrying that journalists, writers and media executives are kept in detention without having been indicted of having committed terrorist acts, and that media companies were closed with their assets having been seized.

34. As I have been informed of poor prison conditions, it would be an act of fair justice to release those journalists, especially if they have health problems. I was given the names of Ms Necmiye Alpay, Ms Aslı Erdoğan, Ms Nazlı Ilıcak as well as the head of the board of the newspaper Cumhuriyet, Akin Atalay, its editor-in-chief Murat Sabuncu and its cartoonist Musa Kart. These journalists are only a small number of those whose detention should be ended while they are awaiting their trials. At the end of my fact-finding visit to Turkey, I made an appeal to the Turkish authorities to release from detention all journalists who have not been indicted for actively participating in terrorist acts.²⁰ It seems this appeal was echoed in the Grand National Assembly of Turkey.²¹

35. Until recently, members of the Grand National Assembly of Turkey were able to visit persons detained in prison. Since this possibility has been withdrawn, the work of the Grand National Assembly has been hampered, including its Inquiry Committee on Human Rights and its Inquiry Committee on the coup d'état of 15 July. The democratic oversight of government conduct is a vital element for democratic stability and the deep security of a State.

36. The Committee on Political Affairs and Democracy requested on 7 November 2016 the Venice Commission to produce an opinion on the emergency decrees which affect the media situation in Turkey. This opinion is likely to be adopted by the Venice Commission after the first part-session 2017 of the Assembly. Likewise, the report to the United Nations Human Rights Council by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression is foreseen for March 2017. As the state of emergency has been extended to January 2017, further emergency measures against media are feasible. It is therefore not possible at this stage to draw final conclusions on the media situation in Turkey. Accordingly, I suggest that the Assembly remains seized of this issue and revert to it before the end of 2017.

Ukraine

37. The situation in Ukraine was addressed on a number of issues. As regards the killings of, and the alleged targeted attacks on, journalists in the armed conflict in eastern Ukraine, the authorities of Ukraine were called upon to do their utmost to investigate those attacks and bring the perpetrators before domestic courts. I can report that the situation in eastern Ukraine remains regrettably the same: the separatist forces have access to heavy weaponry and continue their fighting, thus making it impossible for the Ukrainian authorities to ensure respect of the rule of law and human rights in those areas. In paragraph 19.2 of Resolution 2035, the Assembly invited the Commissioner for Human Rights to pay particular attention to the situation of media freedom in all conflict zones in Europe, particularly in eastern Ukraine. In his future report to the Assembly, the Commissioner will surely address this issue.

38. Resolution 2035 condemned the systematic harassment of the free and independent media in Russian-occupied Crimea, including the raid on the ATR television station. Since then, ATR and other Crimean-Tatar media have been closed down by Russian authorities in the wake of their illegal occupation and annexation of the Crimea region of Ukraine.

39. In this context, I should like to recall the public broadcasting law adopted by the Ukrainian Parliament in April 2014,²² which was welcomed by the OSCE Representative on Freedom of the Media.²³ Targeted cooperation between the Council of Europe and the Ukrainian authorities has been established through the Council of Europe Project "Strengthening Freedom of the Media and Establishing a Public Broadcasting System in Ukraine",²⁴ and further emphasis should be put on the implementation of the law of 2014.

²⁰ <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6410&lang=2&cat=21>

²¹ <http://www.hurriyetdailynews.com/journalists-writers-cartoonists-shouldnt-be-tried-with-arrest-turkish-minister.aspx?pageID=238&nID=106271&NewsCatID=338>

²² <http://cedem.org.ua/en/library/law-of-ukraine-on-public-television-and-radio-broadcasting-of-ukraine/>

²³ <http://www.osce.org/fom/118565>

²⁴ <http://www.coe.int/en/web/kyiv/strengthening-freedom-of-media-and-establishing-a-public-broadcasting-system-in-ukraine>

3. Alerts posted on the Council of Europe Platform

40. It becomes clear from the number and quality of the alerts posted on the Platform to promote the protection of journalism and safety of journalists, that the media situation in Europe requires particular attention. National authorities have often replied in detail and were able to clarify the case or subject matter. In this regard, the Platform has proven to be a useful tool with a high added value by providing a mechanism for media NGOs and governments to in fact discuss serious threats to media freedom.

41. The Platform categorises the cases into attacks on physical safety and integrity of journalists, detention and imprisonment of journalists, harassment and intimidation of journalists, impunity as well as other acts having chilling effects on media freedom. For my report, I wish to focus on those Platform alerts which are particularly serious. However, all Platform alerts deserve to be followed-up and should be responded to by the respective national authorities in member States.

Deaths of journalists

42. Violent deaths of journalists are an attack on the rule of law and democracy. Resolution A/RES/68/163 of the United Nations General Assembly on the safety of journalists and the issue of impunity reminds us all that we cannot tolerate that such murders must not be met with impunity. The following alerts deserve therefore special attention.

43. Pavel Sheremet, a Belarusian journalist working for online investigative newspaper *Ukrayinska Pravda* and *Radio Vesti*, was killed in a car explosion in Kyiv 20 July 2016. This car belonged to Olena Prytula, editor at *Ukrayinska Pravda*. Pavel Sheremet, was a Belarusian journalist and TV host who was imprisoned by the government of Belarus in 1997 and has been working in Russia as TV host and journalist before moving to Kyiv around five years ago.

44. Mustafa Cambaz, a Turkish photojournalist with the daily newspaper *Yeni Şafak* was killed during the failed coup of Friday 15 July 2016 in Turkey. According to his newspaper, he died of a gunshot to the head when soldiers opened fire on the crowds in the Çengelköy neighbourhood of Istanbul in the early hours of Saturday 16 July 2016.

45. Journalist and radio host Luka Popov from northern Serbia was found dead in his home in Srpski Krstur on Friday 17 June 2016. According to Serbian daily *Blic*, Popov's body was found with visible injuries and he had been presumably "tortured and murdered". Three people have been arrested in connection with the crime.

46. Naji Jerf, a Syrian journalist, was gunned down in a busy street of Gaziantep (Southeastern Turkey) on 27 December 2015. He was the founder and editor of the opposition magazine *Henta* and had made several films about atrocities by both Islamic State and the Syrian government.

Physical attacks against journalists

47. Many journalists have faced serious physical attacks for their work. Several of those attacks have not yet been resolved. I wish to recall the following alerts, in the alphabetical order of the counties concerned.

48. Stoyan Tonchev, a reporter for the news portal 'Hello Bulgaria', was assaulted and beaten with baseball bats on 14 January 2016 in his hometown Pomorie. The journalist, who was a candidate during the last local elections in Bulgaria, was left with serious head and skull injuries. Vesselin Dimitrov from the European Centre for Press and Media Freedom in Leipzig, Germany, stated that "Stoyan Tonchev's website is a brave platform uncovering the questionable operations of the municipality in Pomorie. His brutal beating is an act that exemplifies the stagnation of Bulgaria's progress towards a free democratic society".²⁵ There has been no reaction by the Bulgarian Government to this alert so far.

49. The Croatian freelance journalist Željko Peratović, chief editor of 45lines.com website, was beaten up by three unidentified assailants at his home in Luka Pokupska on 28 May 2015. He believed the attack was prompted by his articles about the trial in Munich, Germany of Josip Perković for the murder of Stjepan Djurekovic near Munich in 1983. Josip Perković was a former director of the Yugoslav-era Croatian State Security Service (SDS). Following his visit to Croatia, the Commissioner for Human Rights expressed on

²⁵ <https://ecpmf.eu/news/threats/archive/bulgarian-beaten-up-ecpmf-calls-for-inquiry>

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29 April 2016 his concern about the inadequate response by the Croatian authorities to the reported cases of physical attacks, death threats and intimidation against journalists.²⁶

50. On 22 October 2015, David Perrotin, journalist at BuzzFeed France, was attacked by around ten young men participating in a rally against the coverage of the Israeli-Palestinian conflict by Agence France Presse (AFP). Following police intervention, the journalist was sheltered in the headquarters of the AFP, which was protected by a row of policemen. David Perrotin filed charges the next day. The attackers have been linked to the Jewish Defence League, which has been declared a terrorist organisation by the USA and has also been outlawed by Israel.²⁷

51. On 9 November 2015 in Landes, around ten journalists working for the public broadcasters France 2 Bordeaux and France 3 Aquitaine were attacked by residents while following members of the Bird Protection League (LPO) during an operation against chaffinch poaching. Journalists filed subsequently complaints for assaults and threats, illicit confiscation of the camera, as well as vehicle damages.

52. On 10 March 2016, the Greek journalist Petros Anastassiades was violently attacked and beaten up by 'Golden Dawn' members, while covering a meeting on migration for Rizospastis newspaper at the Regional Council of Attica. The attack occurred while Elias Panagiotaros, a 'Golden Dawn' Member of Parliament, was delivering what media reports called hate speech. In their response of 2 June 2016, the Greek authorities stated that police was not in the meeting room, but outside the building.

53. The Greek freelance journalist Demitrios Perros, working for the municipal radio 'Athens 9,84FM', was brutally attacked by unknown assailants, on 4 February 2016, while covering a protest rally in Athens. In their response of 20 April 2016, the Greek authorities confirmed the facts and stated that a police investigation into the attack and a preliminary administrative inquiry into the police conduct during the protest rally had been started.

54. Two Italian journalists and support staff have received death threats for reporting on mafia boss Vittorio Casamonica's funeral, held in Rome on 21 August 2015. A second attack occurred on 23 August 2015 in Rome when a team from public TV channel RAI 3 were shooting video in the Appio area, where several members of the Casamonica family are living, were attacked by local residents who threatened to kill them if they did not stop filming. In its reply of 10 June 2016, the Italian Ministry of Foreign Affairs explained the legal basis for protecting journalists in organised crime cases.

55. On 27 September 2016, the Director of the Community of Investigative Journalists Grigory Pasko was attacked in the city of Barnaul (Altai region) in Russia by two unknown assailants. He escaped with concussion and a bruise to half of his face. The previous day, a local newspaper quoted a local nationalist activist calling Pasko a "foreign agent." He was in Barnaul to give a seminar on investigative-reporting techniques. Pasko has previously served time in prison for which he was recognised as a prisoner of conscience by Amnesty International.

56. Dmitri Remisov, the Rostov-on-Don regional correspondent for Rosbalt news agency, told the agency he was repeatedly assaulted by police officers while being questioned at the regional Centre for Counteracting Extremism on 11 August 2016. He also filed a complaint against police officers, Rosbalt reported.

57. On 17 March 2016, two unidentified individuals have attacked Igor Rudnikov, the founder and editor of the newspaper Novaya kolyosa (New Wheels) and deputy of the Kaliningrad district parliament. Mr Rudnikov was hospitalised with knife injuries and was placed in intensive care. He did not recognise the assailants.

58. On 9 March 2016, a group of masked men attacked a minibus of six Russian and international journalists and human rights activists at the border between the Russian republics of Ingushetia and Chechnya and then set the bus on fire.

59. Sergey Vinokurov, a correspondent for the weekly politics and news magazine Sobesednik in Russia was severely assaulted outside its editorial offices on 25 February 2016. Police have opened an investigation.

60. After having covered many issues in Chechnya (Russian Federation) and lately a scandalous wedding between an Official security officer and a 17 year old girl, Russian investigative journalist Elena Milashina

²⁶ <http://www.coe.int/en/web/commissioner/-/croatia-high-time-to-create-a-tolerant-and-inclusive-society>

²⁷ <http://www.jpost.com/Diaspora/Far-right-Jewish-mob-tries-to-storm-offices-of-anti-Israel-French-journalist-429920>

received, on 9 June 2015, a warning from GroznInform, which is a State run (Chechnya) news agency: "Like Politkovskaya, Milashina has been awarded international prizes and there is no doubt that the next sacrificial victim will be precisely Elena Milashina. Except that she won't be killed by someone from Caucasus but by some fascists who will be hired for the purpose"

61. Investigative journalist Ivan Ninić was attacked on 27 August 2015 in front of his home by two young men with metal rods. In their response of 12 November 2015, the Serbian authorities stated that the prosecutor launched investigations into this case.

62. Spanish journalist Javier Garcia Angosto was brutally assaulted, on 25 June 2015, in Melilla, following the publication of a series of articles denouncing alleged irregularities in the awarding of a public tender for the use of one of the beaches in the locality of Melilla.

63. A journalist and four photo reporters were seriously injured by security forces on 13 April 2016 in Skopje while covering an anti-government rally.

64. On 20 July 2015, Marjan Stamenkovski, editor of the "Dokaz" website, was brutally assaulted in Skopje by a group of five masked men with metal bars.

65. On 21 April 2015, Borjan Jovanovski, prominent journalist, editor and founder of Novatv.mk received at his home in Skopje a death threat.

66. The Kyiv headquarters of Inter-TV, a private Ukrainian broadcaster, were set on fire on 4 September 2016, as a group of approximately 20 men staged a rally outside it, protesting against the channel's alleged pro-Kremlin policy. At least 30 people were evacuated, many of whom suffered from smoke inhalation and one journalist was injured while escaping from the fire. Inter TV channel has previously been the victim of four violent attacks in 2016. Following the arson attack, a group of around 50 protesters blocked Inter TV channel employees from entering the premises, stating that the blockade would continue until the pro-Russian channel stops broadcasting. Ukrainian President Petro Poroshenko has described the arson attack as an attempt to destabilise the country, and has ordered a thorough investigation into the incident by the Prosecutor General's Office. Local authorities reported that six people have been arrested.

Threats to media freedom in conflict zones

67. Journalists and media in conflict zones are particularly vulnerable, because of the lawlessness of such zones. Europe cannot look away from this situation, which deserves also particular media attention. The OSCE Representative on Freedom of the Media produced an excellent non-paper dealing with war propaganda.²⁸ Nevertheless, there are only two conflict areas referred to in the Platform alerts.

68. On 18 March 2015, a regional court in Transnistria ordered Sergei Ilchenko, a freelance contributor to local and regional media, to be imprisoned for two months pending an investigation into alleged extremism activities. In its response of 30 July 2015, the Moldovan Government stated that, on 18 July 2015, Mr Ilchenko was released from detention by the so-called "security structures" of the Transnistrian region of the Republic of Moldova. On 21 July 2015, he left the Transnistrian region and arrived in Chisinau where he was provided with accommodation and assistance. On 13 September 2016, the partner organisations of the Platform declared this case to be "resolved", concluding it was no longer an active threat to media freedom.

69. On 19 April 2016, FSB agents in the illegally Russia-annexed Ukrainian region of Crimea raided and searched the house of journalist Mykola Semena (freelancer with Krym.Realii - RFE/RL's Crimea service), confiscated his reporting equipment, and briefly detained him for interrogation in connection to a criminal probe on charges of making calls to separatism.

70. Following Russia's illegal annexation of Crimea in 2014, the Russian authorities passed a law obliging media outlets there to register with Roskomnadzor, the Russian media regulator, by 1 April 2015, imposing severe penalties for those continuing to broadcast without registration. Despite submitting several applications, most Crimean Tatar-language media outlets have not received licenses. Those affected include ATR, a media holding that broadcasts the only Crimean Tatar-language TV channel; ATR's affiliates, FM radio stations Meydan and Lider, a children's television channel Lale and a news website 15 Minutes; Crimean Tatar news agency QHA; and Crimean-language newspapers Avdet and Yildiz.

²⁸ <http://www.osce.org/fom/203926?download=true>

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71. Maria Varfolomeyeva, a Ukrainian journalist and media fixer who worked for Svobodny Reporter website and VostokMedia outlets, was arrested on 15 January 2015 by forces loyal to the self-proclaimed so-called “Luhansk People’s Republic (LPR)” on allegations of spying for the Ukrainian Army and the Right Sector (the Ukrainian nationalist movement). On 3 March 2016, Maria Varfolomeyeva was released. On 13 September 2016, the partner organisations of the Platform declared this case to be “resolved”, concluding it was no longer an active threat to media freedom.

72. Oleksandr Kuchynsk, editor of Criminal Express newspaper in Donetsk covering crime, was found murdered along with his wife on 29 November 2014 in the village of Bogorodychne near Slovyansk in war-torn Donetsk Oblast.

Police authorities targeting media

73. Several alerts concern alleged police violence against journalist and media. The underlying facts or the cases are often in dispute. It is therefore important that competent national authorities properly and rapidly investigate all acts in question.

74. In this context, it is to be welcomed that the Platform has published a factsheet of case-law by the European Court of Human Rights on this subject.²⁹

Legislative action threatening media freedom

75. Several member States have revised their anti-terrorism laws and increased the possibility of police and law-enforcement authorities to intercept digital communications. The Platform has collected the case-law of the European Court of Human Rights on this subject.³⁰

76. While some alerts referred to legislation still under parliamentary discussions, the following alerts concern legislation which has been identified as limiting media freedom.

77. On 30 August 2016, in accordance with a recent law which reduces to four the number of national TV licenses issued to private broadcasters, the Greek government launched an auction for four out of the currently operating eight private national TV broadcasting licenses. The Government claimed that this process would restore order to a sector mired in debt and discredited due to its political links, by cracking down on corruption and enabling better regulation. After a three-day bidding process, on 2 September, the four 10-year licenses were successfully awarded. The auction would lead to the closure within 90 days of the four TV existing operators which failed to secure a license, including some of the largest TV operators in Greece.

78. Having written to the Chairperson of the Greek Delegation to the Assembly, Ms Anneta Kavvadia, I received from her a detailed explanation of this matter. Nevertheless, a de facto reduction of the number of licenses of private national broadcasters is of serious concern. While Article 10 of the European Convention on Human Rights allows States to require licenses for broadcasting, such restrictions need to be necessary in a democratic society and the award of such licenses has to be made in a transparent and reasoned process. It seems that the Council of State as the highest administrative court of Greece is currently preparing a decision in this respect. Mere profitability concerns of private broadcasting are not a sufficient ground to revoke long existing licenses, especially as the digitalisation of broadcasting reduces the need, and thus the possibility, for governments to reduce the number of broadcasting licenses for technical reasons.

79. On 23 June 2016, an alert stated that the new anti-terrorism law would give Poland’s intelligence agency (ABW) the right to “order the blocking or demand that the electronic open source service administrator block access to information data”, thereby giving the agency the right to shut down online media outlets, including websites and television programmes. The reply of 5 August 20156 by the Polish Government is inaccessible on the Platform. Opinion No. 839/2016 of 10-11 June 2016 by the Venice Commission analyses this law.³¹

²⁹ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a39cb>

³⁰ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a39ca>

³¹ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)012-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)012-e)

Belarus

80. Not being a member State of the Council of Europe, Belarus is unfortunately not part of the geographic scope of the Platform. Having applied for membership with the Council of Europe and being a member of the Venice Commission, Belarus should nevertheless deserve our attention. In this context, I wish to refer to the report of 21 September 2016 by the United Nations Special Rapporteur on the situation of human rights in Belarus, which also contains a detailed analysis of the problems for media freedom.³²

4. Conclusions

81. The alerts generally reflect the political challenges in a given country. One can distinguish a few general situations:

82. Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine are in military conflict situations, some of which are so-called “frozen”, whereas people are dying in conflicts around the Nagorno-Karabakh region of Azerbaijan as well as the Ukrainian region of Crimea and other regions in eastern Ukraine. This affects those countries and logically also the media situation. Propaganda and hatred are a problem, but also the access of media to the conflict areas and their secure work in those areas. The governments in Azerbaijan, Georgia, Moldova and Ukraine have difficulties to control the situation regarding media freedom in the respectively occupied territories because of their lack of influence over these areas.

83. Turkey has seen a failed military coup d'état on 15 July 2016, which led to the introduction of a state of emergency. The Turkish Government has notified the Council of Europe of its derogation from the European Convention on Human Rights under Article 15 of that convention on 21 July 2016. This extraordinary situation has seriously affected the media situation in Turkey, as described above.

84. Several terrible acts of terrorism occurred in Belgium, France and Turkey, which required stricter security measures. Proportionality is required in those actions, and media freedom must be respected in order to allow the public to receive all information necessary in a democratic society. Otherwise, those terrorists would have succeeded in undermining public trust in the democratic institutions of a country.

85. A number of countries received alerts on their law and practice regarding national public service broadcasters. This issue has already been addressed in past Assembly work such as Recommendation 1878 (2009) on the funding of public service broadcasting,³³ but it seems to be a continuous challenge for many countries. Further assistance and practical cooperation with those countries seems necessary.³⁴

86. Finally, I would like to commend the partner organisations of the Platform for their tireless efforts in alerting the Council of Europe to serious violations of media freedom. Without their cooperation, our work would not be possible, because our Assembly depends on first-hand information by the journalists and media affected. Only with the help of the institutional partners of the Platform and the media, the Council of Europe and its member states can seek to address the most pressing threats to media freedom in a Europe which faces today several major challenges by military conflicts, terrorism, organised crime, economic problems and increased globalisation.

³² <http://www.un.org/Docs/journal/asp/ws.asp?m=A/71/394>

³³ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17763&lang=en>

³⁴ <https://www.ebu.ch/news/2016/11/conference-urges-political-will-for-proper-functioning-of-psm>