



AS/Cult/Media (2009) 03
24 September 2009

COMMITTEE ON CULTURE, SCIENCE AND EDUCATION Sub-Committee on the Media

Respect for Media Freedom

Rapporteur: Mr Andrew McIntosh, United Kingdom, Socialist Group

Background report

Prepared by William Horsley, International Director of the Centre for Freedom of the Media (CFOM) at the University of Sheffield and UK and Media Freedom Representative of the Association of European Journalists (AEJ)

1. This Report was written to assist the Parliamentary Assembly to act on its concerns about physical assaults and other forms of serious harassment of journalists in Europe. It describes the wide extent of the severe violations of media freedom, including the documented record of murders of journalists and violent attacks on them, in Council of Europe member states from early 2007 to September 2009.
2. The Report draws on the detailed findings of leading international and national monitoring organisations, which together provide evidence that during the past three years Europe has suffered a marked setback in the overall level of media freedom. It is apparent from this survey of the last three years that the violations and abuses are more acute and pervasive than has been widely understood.
3. This assessment uses as its reference point the Parliamentary Assembly's Indicators for Media in a Democracy, which were agreed last year as guidelines to apply the principles of media freedom to be respected in a democratic society (Assembly Resolution 1636 (2008)). The Indicators cover a broad range of threats including acts of violence, restrictive laws and the misuse of political authority, interference with the independence and fair regulation of the media, and professional and ethical standards. My detailed assessment follows after an overview of the landscape for media freedom across Europe.

Overview of violent assaults and severe violations of freedom of expression in the media

4. A pattern of violence and intimidation, and habitual use of oppressive laws against investigative and critical journalism, has become entrenched in the Russian Federation, the largest country in Europe whose influence is felt by all its neighbours. The world was shocked by the murder on 19 January 2009, of a young woman journalist, Anastasia Baburova, together with leading human rights lawyer Stanislav Markelov, in plain daylight in central Moscow. That alarm was made more acute when Russian law-enforcement agencies failed swiftly to arrest those responsible for the murders.
5. Severely oppressive conditions also prevailed for independent journalists in varying degrees in Armenia, Azerbaijan, Belarus, Georgia and Moldova. In those countries, governments have displayed intolerance of independent and inquiring media as well as towards political opponents. At the same time, militant and insurgent groups, motivated by political or religious goals, have sought to challenge the political order using violence, and made prominent journalists the target of assaults.
6. The threat of major terrorist attacks remains evident. But the Council of Europe upholds the principle that while governments have an essential duty to protect the state and the public from terrorist violence, the means they use must not be at the expense of democratic freedoms, including the freedom of expression and of the media. The Parliamentary Assembly has affirmed that where journalists must fear for their lives and security, democracy is at risk.

7. The Council of Europe's Ministerial Resolution adopted at the Reykjavik conference in May 2009 stated that freedom of expression and information risk falling victim to terrorism, due not only to a climate of fear that terrorism can create but also as a side effect of anti-terrorism legislation or measures. The Declaration referred to widespread concerns that some anti-terrorism legislation restricting freedom of expression is too broad, fails to define clear limits to authorities' interference or lacks sufficient procedural guarantees to prevent abuse.

8. Violence and persecution directed against journalists is usually associated with systemic turbulence, instability and the weakening of the legitimacy of governmental institutions in the states where it takes place. Some of the most severe examples of the oppression of free media occurred in conjunction with armed conflict, including that between Russia and Georgia in August 2008, as well as the low-level insurgency and lack of internal security in the Russian Republics of the North Caucasus, including Chechnya.

9. In Turkey, journalists face the risk of prosecution under a large number of laws restricting free speech. In 2008 alone, more than 100 journalists faced criminal investigations for writing or speaking about sensitive political matters, or allegedly revealing state secrets, or criticising the armed forces or others in positions of high office.

10. In Serbia, Croatia and other parts of the former Yugoslavia, residual tensions from the Balkan wars of the 1990s and powerful nationalist currents lie behind many cases of violence against journalists. Media independence and freedom is made vulnerable by political instability, a lack of independence of the judiciary and fragile state institutions of some states in the region.

11. In many member states in East and West alike, intrusive and far-reaching laws on counter-terrorism, state security, state secrets and government powers of surveillance and data control have brought new restrictions on media freedom. Journalists in France, Germany, Italy, the UK and other established democracies have faced attempts to prosecute them when they have uncovered or questioned matters of high sensitivity to governments. In every region of Europe there has been an increase in political or commercial interference in significant sectors of the media.

12. For much detailed, independently-sourced information I and my colleagues at the Centre for Freedom of the Media at the University of Sheffield acknowledge the expert work and published reports of a number of independent non-governmental organisations, including the International Press Institute (IPI), Reporters Without Borders (RWB), Freedom House (FH), the International Federation of Journalists (IFJ) and the European Federation of Journalists (EFJ), Article 19, the Committee to Protect Journalists (CPJ), the World Association of Newspapers (WAN), the Open Society Institute (OSI), International Pen, the International News Safety Institute (INSI), Human Rights Watch (HRW), Amnesty International (A I), the Association of European Journalists (AEJ), the Glasnost Defence Foundation (GDF), the South East Europe Media Organisation (SEEMO) and other national and international groups.

13. The Organization for Security and Cooperation's Representative in Europe on Freedom of the Media (OSCE FoM), Miklos Haraszti, has closely monitored violation of media freedom across Europe and made multiple representations to national governments asking them to fulfil their international commitments. His office's work constitutes a valuable record.

14. Some positive developments for freedom of the media have been seen since 2007, but often their effect has been blunted by contrary trends towards more controls and interference in media independence. Freedom of information laws are now in force in most member states, but some governments have cited pressing security concerns as a reason for placing new limits on applications, or on the range of information that can be obtained. The Council of Europe Treaty on Access to Information, adopted on 27 November 2008, was signed by only 12 states, and the human rights organisation Article 19 criticised its provisions as weaker than many existing European laws on the right to access information.

15. Several states have taken steps to decriminalise libel, a liberal reform which ease the fear of severe penalties for journalistic inquiry, and which can ease pressures to practice self-censorship. Nevertheless many defamation or insult actions against journalists, both criminal and civil, have continued to be recorded.

16. A growing number of countries have also abolished blasphemy laws which can be used to prevent legitimate criticism of religious leaders and suppress the views of religious minorities. Yet laws banning incitement to hatred or violence have been made more strict in many countries and are still regularly used against journalists by governments seeking to limit factual reporting or the expression of non-violent views.

17. The spread of the Internet, and mobile and digital media, has greatly increased the ability of people across Europe to access and share information. But states have also used the new technologies to gather data on journalists and other users for the purposes of surveillance, and thousands of websites have been closed by order of governments. Internet journalists and bloggers now face similar risks of criminal prosecution on grounds of defamation or spreading extremism as journalists in traditional media.
18. In its latest annual report on media freedom in Europe in 2008, the US-based independent media monitoring organisation Freedom House identified a strong contrast between the newer democracies of Central Europe, which display serious shortcomings with respect to press freedom but successfully maintain open and independent media sectors, and the post-communist countries on the territory of the former Soviet Union, which with the exception of Ukraine now show a persistent pattern of media repression.
19. FH assessed the press as "Free" in 31 Council of Europe member states, including 8 countries in Central and Eastern Europe, namely the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia, Slovenia and Poland. Eleven other countries in the eastern part of Europe were counted as only "Partly Free": they are Turkey, Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Georgia, "The former Yugoslav Republic of Macedonia", Montenegro, Serbia, Romania and Ukraine.
20. Italy was the only country in western Europe to be marked down in the Freedom House survey from the Free into the Partly Free category, because of the increased use of courts and libel laws to limit free speech, heightened physical and extralegal intimidation by both organised crime and far-right groups, and concerns over media ownership and influence.
21. Four states, Armenia, Moldova, Azerbaijan and Russia, were classified as "Not Free", as was Belarus, the only European state not yet accepted as a member of the Council of Europe because of fundamental failings in its record for democratic governance and the protection of human rights.
22. The Parliamentary Assembly has actively concerned itself with the protection of the safety of journalists and threats to media freedom. It addressed these matters urgently after the murders of Anna Politkovskaya in Moscow in October 2006 and the Armenian-Turkish writer and editor Hrant Dink in Istanbul in January 2007, and other major instances of assaults on journalists and threats to the freedom of the media in Europe to report on matters of public interest.
23. A review of the catalogue of murders and serious assaults against journalists and other serious violations of media freedom in Europe (Doc 11143) was presented by the Rapporteur on Media Freedom of the Parliamentary Assembly of the Council of Europe, Andrew McIntosh on 23 January 2007. On 25 January 2007 Parliamentary Assembly Resolution 1535 on threats to the lives and freedom of expression of journalists condemned the murders of Anna Politkovskaya and Hrant Dink, and brutal attacks on several other journalists in Azerbaijan, Moldova and Ukraine, as well as death threats by religious leaders against a number of individuals following the publication in several European countries of newspaper cartoons depicting the Prophet Muhammad.
24. The Assembly also voiced concern over the lack of progress in bringing to justice those responsible for the murder of the Ukrainian editor of the online newspaper *Ukrainskaya Pravda*, Georgiy Gongadze, whose decapitated body was found in a forest near Kyiv on 3 November 2000, following his disappearance on 16 September of that year. Gongadze was a well-known critic of the then president of Ukraine, Leonid Kuchma.
25. The Resolution reminded member states of their legal obligation to investigate murders, acts of violence and threats against journalists. It called on national parliaments to abolish laws which place disproportionate limits on freedom of expression - for example, the Turkish Parliament as regards Article 301 of the Turkish Penal Code, which criminalises speech that is deemed to insult Turkish state institutions or Turkish identity; and to hold the authorities accountable for failures to investigate or prosecute murders, attacks and death threats against journalists - including the Russian Parliament with regard to the murder of Anna Politkovskaya.

The murders of Hrant Dink and Anna Politkovskaya and subsequent trials

26. The murders of Hrant Dink and Anna Politkovskaya caused international outrage because of their high international reputations, the brazen nature of the murders, and the weaknesses of the investigations and trials which followed. Hrant Dink was shot and killed on a public street in Istanbul on 19 January 2007. He had received death threats after writing about the mass killings of Armenians in 1915. He had earlier been convicted and given a suspended 6-month jail sentence on charges of insulting Turkishness under the then newly adopted Article 301.

27. The Parliamentary Assembly Resolution 1535 (2007) denounced laws such as Turkey's Article 301 which limit freedom of expression, saying that their existence has the effect of validating legal and other assaults on journalists.

28. The failure of the Turkish authorities to pursue and bring Hrant Dink's killers to justice promptly and transparently has been seen as a signal of that state's lack of determination to show that with regard to murders and assaults against journalists justice will be done, and be seen to be done.

29. Article 301 of Turkey's Penal Code was amended in April 2008 but the law still criminalises denigration of the Turkish nation and state institutions and high officials. Together with other criminal laws, that article continues to subject journalists and others to criminal investigations and prosecutions because of their opinions, in a clear breach of Council of Europe standards.

30. Anna Politkovskaya, a reporter for the independent Russian newspaper Novaya Gazeta, was shot dead at point blank range in her Moscow apartment building on 7 October 2006. The murder had characteristics of a contract killing. The murder weapon, a pistol fitted with a silencer, was left at the scene. The killer wore a peaked cap but his face could partly be seen in a closed circuit TV recording.

31. Anna Politkovskaya had previously received death threats because of her revealing reports about torture, corruption and human rights abuses in Chechnya and elsewhere. At the time of her death she was preparing to report on alleged torture of Chechen civilians by military units loyal to the President of Chechnya.

32. A trial was opened in Moscow in November 2008 in which three alleged accomplices, a former police officer and two Chechen brothers, were charged. But on 19 February 2009 the jury found all three of the accused not guilty. A fourth suspect was acquitted in a separate trial.

33. Following an appeal by lawyers for the family of Anna Politkovskaya Russia's Supreme Court overturned the acquittals in June, citing irregularities in the trial. On 3 September it sent the case back for further investigation in preparation for a fresh trial. The decision opens up the possibility that a thorough and impartial investigation might yet result in placing the so far unknown persons responsible for ordering the murder in the dock together with the accused from the earlier trial. Until now, however, the masterminds of the murder have still not been identified.

34. The International Press Institute declared on 19 February 2009 that Russian prosecutors had so far shown themselves incapable of bringing to justice those who orchestrated the crime. Their statement said: "If the Russian justice system is to retain any credibility, the authorities need to redouble their efforts...and prosecute the killers, no matter how highly placed they may be."

35. The European Parliament passed a Resolution on 18 December 2008 declaring that "the criminal investigation and trial following the murder of Anna Politkovskaya raise serious concerns with regard to transparency and respect for the rule of law, when this brutal killing is not yet being fully investigated and solved in a satisfactory way".

36. The OSCE Representative on Freedom of the Media, Miklos Haraszti, said in a speech in Moscow in 2007 that deaths and severe injuries inflicted on journalists are "the most dangerous sin against freedom of press", because they lead to censorship far beyond the context of the particular crime of violence and affect the whole society by spreading fear and sapping the willpower of editors and journalists to continue to do their work of independent-minded reporting.

37. The murders of Hrant Dink and Anna Politkovskaya are seen as test cases of the will of governments to put an end to the epidemics of violence against journalists which are a matter of public record. The responses of the state authorities in these two cases has been widely judged to be inadequate, adding to the compelling evidence gathered over recent years that the necessary political will has so far been lacking.

38. CPJ and others report an encouraging commitment to high standards of juridical independence among important sectors of Russia's judicial administration. However it is clear that strong and unequivocal leadership from those in positions of the highest political authority is required to ensure that those who kill or assault journalists are brought to justice and a free press is allowed to do its work without hindrance.

Summary of murders, assaults and imprisonment of journalists

39. The paramount cause for concern is the high toll of journalists and media workers who have been killed or suffered severe physical assaults in Europe while carrying out their work. At least 20 journalists have been killed on duty apparently because of their work since the start of 2007. That number includes six deaths recorded up to September of this year, 2009. By comparison, the IPI's figures recorded a total of 13 deaths in the three full years 2004, 2005 and 2006.

40. The 20 names of the murdered journalists or media workers and the countries where their deaths took place are as follows:-

Russia (12): Ivan Safronov, Vyacheslav Ifanov, Ilyas Shurpayev, Gadji Abashilov, Sergey Protazanov, Magomed Yevloyev, Telman Alishayev, Shafiq Amrakhov, Anastasia Baburova, Vyacheslav Yaroshenko, Natalia Estemirova and Abdulmalik Akhmedilova

Georgia (4): Alexander Klimchuk, Grigol Chikhladze, Stan Storimans and, Giorgi Ramishvili;

Croatia (2) Ivo Pukanic and Niko Franjic;

Turkey (1): Hrant Dink;

Bulgaria (1) Georgi Stoev.

41. The scale of other violent assaults on journalists and editors, and threats of violence against them, has also remained unacceptably high. The great majority of the targeted killings or serious assaults took place in countries of the former Soviet Union: Russia, Armenia, Azerbaijan, Moldova and Belarus; but cases were also recorded in Turkey, Croatia, Serbia, Greece and Spain.

42. As of 1 December 2008 the CPJ reported that eight journalists were serving prison sentences in three states – Armenia (1), Azerbaijan (5) and the Russian Federation (2). In most cases the offences used to obtain those convictions arose from their professional work. In each case when other criminal charges were used to obtain convictions, independent organisations objected that laws had been used maliciously or in a politically motivated way to silence journalists whose reports or views were unwelcome to powerful interests.

Council of Europe actions on protecting media freedom

43. In 2008 the Parliamentary Assembly, recognising the need for a written set of principles for action to defend media freedom and prevent violations, published its list of such principles in its Resolution 1636 (2008). Their purpose is to assist national parliaments to analyse the environment for media freedom and to identify problems which may require legal or political remedies. The list of 27 Indicators for Media in Democracy, compiled by Wolfgang Wodarg, the Rapporteur for the PACE Committee on Culture, Science and Education, was approved by the Assembly on 3 October 2008.

44. The Assembly recommended that the Indicators should be used as the basis for regular national reviews of the state of media freedom. This Report is the first to apply the Indicators to the actual record of serious violations of media freedom, over the timeframe of the past three years.

45. The scope of the list reflects the central and many-sided role of the media in a democracy. When the media are oppressed or subject to violence, unduly restrained, fearful, or biased in favour of political or other forces, citizens' freedom of expression and of political choice is limited or lost, the vitality of civil society is stifled and the democratic process is corrupted. The wide-ranging nature of the Indicators is therefore appropriate and necessary.

46. The complete list of Indicators is as follows:-

Resolution 1636 (2008):

§ 8.1. the right to freedom of expression and information through the media must be guaranteed under national legislation, and this right must be enforceable. A high number of court cases involving this right is an indication of problems in the implementation of national media legislation and should require revised legislation or practice;

§ 8.2. state officials shall not be protected against criticism and insult at a higher level than ordinary people, for instance through penal laws that carry a higher penalty. Journalists should not be imprisoned, or media outlets closed, for critical comment;

§ 8.3. penal laws against incitement to hatred or for the protection of public order or national security must respect the right to freedom of expression. If penalties are imposed, they must respect the requirements of necessity and proportionality. If a politically motivated application of such laws can be implied from the frequency and the intensity of the penalties imposed, media legislation and practice must be changed;

§ 8.4. journalists must not be subjected to undue requirements by the state before they can work;

§ 8.5. political parties and candidates must have fair and equal access to the media. Their access to media shall be facilitated during election campaigns;

§ 8.6. foreign journalists should not be refused entry or work visas because of their potentially critical reports;

§ 8.7. media must be free to disseminate their content in the language of their choice;

§ 8.8. the confidentiality of journalists' sources of information must be respected;

§ 8.9. exclusive reporting rights concerning major events of public interest must not interfere with the public's right to freedom of information;

§ 8.10. privacy and state secrecy laws must not unduly restrict information;

§ 8.11. journalists should have adequate working contracts with sufficient social protection, so as not to compromise their impartiality and independence;

§ 8.12. journalists must not be restricted in creating associations such as trade unions for collective bargaining;

§ 8.13. media outlets should have editorial independence from media owners, for instance by agreeing with media owners on codes of conduct for editorial independence, to ensure that media owners do not interfere in daily editorial work or compromise impartial journalism;

§ 8.14. journalists must be protected against physical threats or attacks because of their work. Police protection must be provided when requested by journalists who feel threatened. Prosecutors and courts must deal adequately, and in a timely manner, with cases where journalists have received threats or have been attacked;

§ 8.15. regulatory authorities for the broadcasting media must function in an unbiased and effective manner, for instance when granting licences. Print media and Internet-based media should not be required to hold a state licence which goes beyond a mere business or tax registration;

§ 8.16. media must have fair and equal access to distribution channels, be they technical infrastructure (for example, radio frequencies, transmission cables, satellites) or commercial (newspaper distributors, postal or other delivery services);

§ 8.17. the state must not restrict access to foreign print media or electronic media including the Internet;

§ 8.18. media ownership and economic influence over media must be made transparent. Legislation must be enforced against media monopolies and dominant market positions among the media. In addition, concrete positive action should be taken to promote media pluralism;

§ 8.19. if media receive direct or indirect subsidies, states must treat those media fairly and with neutrality;

§ 8.20. public service broadcasters must be protected against political interference in their daily management and their editorial work. Senior management positions should be refused to people with clear party political affiliations;

§ 8.21. public service broadcasters should establish in-house codes of conduct for journalistic work and editorial independence from political sides;

§ 8.22. "private" media should not be run or held by the state or state-controlled companies;

§ 8.23. members of government should not pursue professional media activities while in office;

§ 8.24. government, parliament and the courts must be open to the media in a fair and equal way;

§ 8.25. there should be a system of media self-regulation including a right of reply and correction or voluntary apologies by journalists. Media should set up their own self-regulatory bodies, such as complaints commissions or ombudspersons, and decisions of such bodies should be implemented. These measures should be recognised legally by the courts;

§ 8.26. journalists should set up their own professional codes of conduct and they should be applied. They should disclose to their viewers or readers any political and financial interests as well as any collaboration with state bodies such as embedded military journalism;

§ 8.27. national parliaments should draw up periodic reports on the media freedom in their countries on the basis of the above catalogue of principles and discuss them at European level.

Indicators for Media in a Democracy and violations in Council of Europe states

47. In applying the 27 Indicators to the record of violations and abuses of media freedom in member states, the violations are divided into three categories:-

A. those relating to failings in the basic framework of laws, violent acts and threats to the physical safety of media workers and the basic freedom of journalistic work, and evidence of impunity for those who attack, harass or threaten journalists - (Indicators 8.1, 8.2 and 8.14)

B.. those related to the failure of states to ensure the openness of governmental agencies, parliaments and the courts, and examples of political control or interference in the independence of press and broadcasting organisations (Indicators 8.3 to 8.10, 8.13, 8.15 to 8.20, 8.22 to 8.24).

C. those relating to failings in the ethics and professional standards of owners and media workers, the transparency of media ownership and fair media regulation (Indicators 8.11, 8.12, 8.21, 8.25 and 8.26.) and the effectiveness of scrutiny or reviews of conditions for media freedom in member states.

INDICATORS FOR MEDIA IN A DEMOCRACY

CATEGORY A: murders, violence against journalists and the most serious violations

48. Category A. covers the most severe and damaging violations of media freedom, including physical assaults and murder, intimidation, impunity for crimes targeting journalists and the application of excessively severe penal laws to protect state officials from the level of criticism which is to be expected in a democracy.

49. When editors or key reporters are removed from active work, whether as a result of murder, serious injury, threats or imprisonment, the effect is to weaken the viability of those media outlets or to force their closure. It also has a chilling effect on other media and on the whole society.

50. The OSCE's Representative on Freedom of the Media drew a direct link between the abuse of state power and the crippling of media freedom in his speech in Warsaw on 4 October 2007, when he stated that state hostility and violence against journalists through street arrests, detention and criminal prosecutions for reporting are "gateways to unofficial violence, threats, assault and murder."

51. The record of 20 deaths of journalists and other cases of assaults leading to serious bodily injury is set out by country. It records the known circumstances and information about the journalists' work, as well as subsequent investigations and judicial processes.

Violence against journalists: the record of events in context

Armenia

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

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

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

Azerbaijan

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

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

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

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

59. OSCE FoM reported that in May 2007 another Realny Azerbaijani reporter, Uzeyir Jafarov, had been beaten almost to death by people who had attended Fatullayev's trial.

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

Belarus

61. Belarus is ranked in 188th place out of 195 countries in Freedom House's World Press Freedom Ranking for 2009, judging it to have the worst record of any country in Europe. RWB said on 12 February 2008 that the free press there had virtually disappeared because of regular administrative harassment and a repressive framework of laws. The government has recently indicated its willingness to allow some independent newspapers to be published and sold.

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

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

Bosnia and Herzegovina

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

Bulgaria

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

66. Ognyan Stefanov, the editor of the investigative website Frognews was left unconscious for three days and critically ill after being attacked with hammers by masked men outside a restaurant in Sofia on 22 September 2008. RWB reported that Stefanov's injuries included two broken legs and a broken arm.

67. Reporters Without Borders reports that on 9 February 2007 two men threatened to throw acid at Maria Nikolaeva after she had co-written a critical article about a project to build a block of flats at Bulgaria's largest protected site, the nature reserve in Strandja on the Black Sea.

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

Croatia

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

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

Georgia

71. Four journalists were killed and at least ten others were injured while reporting on the conflict in Georgia in August 2008.

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

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

74. On 6 September Giorgi Ramishvili of Rustavi 2 TV station was killed, reportedly shot while filming around the Georgian village of Shavnabada near Tblisi.

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

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

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

Greece

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

Hungary

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

Italy

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

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

Moldova

82. Police were accused of using excessive force, assaulting and arresting a number of journalists during post-election demonstrations on 8 April 2009 and in the following days.

83. The government stopped a number of Romanian and other foreign journalists from entering the country around that time, and detained others who were already there (Indicator 8.6 on open access to foreign journalists).

84. The OSCE Representative on FoM complained to the government about the police behaviour and the restrictions on reporting (Indicator 8.6). He also called on the journalists reporting on the street protests and clashes to do so objectively, without inflaming the situation.

Russia

85. The lengthy catalogue of violent deaths among journalists in Russia is an affront to the principles of the Council of Europe, including the right to life and to free expression. These documented cases seem to show persistent and careless violation of the requirement to protect journalists against physical attack, and a habitual failure to deal with assaults and threats adequately through the courts (Indicators 8.1. and 8.14).

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

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

88. On 21 March 2008 Ilyas Shurpayev, a TV reporter for Russia's Channel One who had reported widely from the Russian Republic of Dagestan was stabbed and apparently strangled in his Moscow apartment. Three suspects were arrested and accused of his murder and theft, and sentenced to long prison terms. The Committee to Protect Journalists reports that Shurpayev had described himself as having been branded as a dissident. He was killed shortly after he had written an article for a newspaper in Dagestan which had rejected his writing as too controversial. Three men convicted but further investigations called for.

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

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

91. Yevloyev and his website were known for its work exposing official corruption, alleged election fraud and human rights abuses in Ingushetia. After at least two attempts by regional prosecutors to shut down the website it had eventually been closed on 12 August 2008 for breaking the law on extremism but Yevloyev and his colleagues had continued to publish on it. International Pen reports that the website's exposure of abuses under the President of Ingushetia, Murat Zyazikov, were followed by his dismissal by order of the Russian federal government in October 2008.

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

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

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

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

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

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

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

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

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

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

Other cases of violent assault in Russia

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

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

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

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

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

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

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

109. However at a press conference in January 2007 President Putin expressed concern about her death and described the problem of the persecution of journalists in Russia as one of most pressing facing his government. The record of killings and assaults on journalists in Russia calls for unambiguous condemnation and determined executive leadership. President Dmitry Medvedev, who took over that office in 2008, has condemned violence against journalists in strong terms, but appropriate legislative and political reforms have yet to follow.

Attacks on human rights defenders

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

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

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

113. The Russian government's current draft so-called Memory Law "On Combating the Rehabilitation of Nazism, Nazi Criminals or their Collaborators" in any part of the territory of the former Soviet Union, represents a serious denial of freedom of expression. The penalty envisaged is up to five years' imprisonment and heavy fines. Article 19 and other international organisations oppose the planned law as a threat to censor independent study of history. Article 19 says the law infringes the right to seek historical truth; that it is part of a growing state censorship related to published history and education about history; and that the government's choice in presenting the measure is to be seen alongside other repressive acts such as the November 2008 police raid on the human rights organisation Memorial and the unlawful confiscation of its historical archives about the era of Soviet communism.

114. During the conflict in Georgia Russia's state-run TV stations frequently displayed highly prejudiced coverage and assessments, such as headlines referring to Georgian acts of "genocide" in South Ossetia which were criticised by HRW and others as unjustified and misleading.

Serbia and Kosovo¹

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

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

Spain

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

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

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

Turkey

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

121. Reporters Without Borders reported two more recent attacks on journalists. Haci Bogatekin, owner of the fortnightly publication Gerger Kirat, was injured and his camera was broken in an attack on 28 July 2009, while reporting on a fire at a controversial waste site in the southeastern province of Adiyaman. RWB alleged then that beatings were commonly being ordered or carried out by local officials as a means to silence journalists. And on 6 July 2009 Durmus Tuna, the owner of local Soke Gercek newspaper in south western Turkey, suffered a broken arm in an assault by a group of men. He had reported on corrupt practices in the local government.

The Hrant Dink Murder Trial and Laws restricting freedom of expression

122. The behaviour of Turkish police during the investigation and the conduct of the trials of suspects in Hrant Dink's murder have given rise to complaints of negligence, obstruction and collusion on the part

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

of members of the security forces. A number of other senior public officials were removed from office on grounds of failures of duty. Turkish television in early 2007 broadcast video footage of several police and gendarmerie officers posing for a photograph with Oguen Samast, who was under arrest for shooting Hrant Dink.

123. Reporters Without Borders alleged that state institutions, especially the police, were protecting and supporting the defendants and others responsible for Hrant Dink's murder. Information which emerged in the trial showed that Hrant Dink and two of the accused were under police surveillance at the time of the murder, yet action was not taken to protect the editor and journalist from harm.

124. The main trial opened on 2 July 2007 in Istanbul. The tenth hearing took place on 6 July 2009, with a further session scheduled for 12 October. In February this year, following public statements by the Turkish Parliament's Human Rights Committee that police and gendarmerie officers knew of specific threats to the life of Hrant Dink which they negligently failed to act on, a new investigation was ordered into the role of Turkish security forces. However, on 8 July the trial judge ruled that the police had not obstructed the emergence of the truth.

125. The European Court of Human Rights has asked the Turkish authorities to provide information concerning Hrant Dink's murder by November 2009. The court will hear a complaint from lawyers acting for members of Hrant Dink's family, challenging the decision of the Turkish court to exempt from investigation six serving officers in the Trabzon police and gendarmerie and the Istanbul police from investigation, after preliminary investigations and expert reports produced evidence against them.

126. Concerns about the Turkish judiciary's handling of these trials have been compounded by two other decisions: the prosecution of journalist Nedim Sener on charges including that of revealing classified information after he published a book on Hrant Dink's murder, including allegations about negligence of the security forces in failing to prevent his killing; and the sentencing in 2007 of Arat Dink, the son of Hrant Dink and his successor as editor of the Turkish-Armenian newspaper Agos, together with the publisher Serkis Seropyan, to a suspended one-year jail term for repeating Hrant Dink's words describing the killings of 1915 as genocide.

127. Lawyers for the Dink family have pressed for an investigation into possible links between Hrant Dink's assassination and the ultra-nationalist Ergenekon organisation. Ergenekon is an alleged illegal network of high-ranking figures from the military, the bureaucracy, academia and journalism dedicated to bolstering the power of the army and undermining the present government. In July 2009, 56 of the group's alleged members were placed on trial on a range of serious charges.

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

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

130. International Pen reported in September 2009 that there are more than 70 current outstanding cases of journalists and writers facing criminal investigation or trial in Turkey for their opinions. Of those, 27 individuals face possible criminal prosecution under Article 301. International Pen says at least 7 applications for criminal investigation under the amended Article 301 are currently under consideration by the Ministry of Justice. So far no confirmed case of prosecution under the amended article is known.

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

Ukraine

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

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

United Kingdom

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

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

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

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

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

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

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

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

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

INDICATORS FOR MEDIA IN A DEMOCRACY

CATEGORY B – The state's relationship with the media and serious violations of journalists' freedom of information and expression

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

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

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

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

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

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

Restrictions, harassment and media bias in elections

148. Indicator 8.5, on fair access to the media for all candidates, especially at times of elections, is central to the workings of democracy. That principle has however been violated in a number of post-communist member states, where international elections monitors have found evidence of serious distortions and bias in media reporting on elections. In some cases they have been unable to carry out their work because of a lack of cooperation from the host governments.

149. In **Armenia** the mass protests following the contested victory of Serzh Sargsyan in the presidential election of 19 February 2008 prompted the declaration of a State of Emergency, including provisions for strict censorship of all publications for twenty days. Several media outlets closed down in that time rather than submit to censorship. An AEJ Report of 5 December 2008 reported that most leading newspapers and broadcasting organisations openly took sides between the pro- and anti-government political forces while covering these events, showing that media independence of political authorities in Armenia had been effectively ended in a climate of extreme political polarisation and mutual antagonism.

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

151. In the case of the **Belarus** parliamentary elections of September 2008, the Parliamentary Assembly pointed to the lack of pluralist information for voters as one of the serious flaws which cast serious doubt over the fairness of the election result.

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

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

154. As per Indicator 8.5, the well-documented existence of formal or informal blacklists of individuals who are effectively barred from appearing on mainstream media in Russia represents blatant bias and a violation of Council of Europe standards,

The impact of Anti-Terrorism, anti-extremism laws and security laws on media freedom and challenges to the confidentiality of sources

155. Indicators 8.3 and 8.10 express the rule in democratic states that laws for the protection of state secrets, national security or against incitement to hatred must respect the right to freedom of expression, which should only be overruled in exceptional cases.

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

157. Yet in numerous cases states have been accused of prosecuting journalists without due regard for the principle that reporting such matters may constitute a genuine public interest (8.3 and 8.10). Respect for the confidentiality of journalists' sources (8.8) has also been challenged repeatedly in the courts.

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

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

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

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

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

Switzerland: three Sonntags Blick reporters were prosecuted in 2007 for revealing evidence of the secret US prisons for terror suspects in EU countries. The journalists were acquitted in a military court.

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

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

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

160. The Czech Republic in April 2009 enacted a law which bans any publication of material based on police wiretapping, and carries a penalty of up to five years imprisonment for the offence.

161. The OSCE FoM criticised the failure to distinguish between the liability of state officials who leak information and that of other citizens including journalists. That weakness, he said, was apparent in the laws of several post-communist democracies and should be removed as “a remnant of the past enslavement of the citizen to the state.” Similar laws have been passed recently in Italy and Spain. All have been contested as contrary to European norms on press freedom.

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

163. European Union states: Serious concerns have been raised by civil rights and media watch groups concerning EU Law on the retention of personal data on telephone, e-mail and Internet communication. It is feared that they could enable governments easily to identify journalists' confidential contacts with sources. The European Union's Directive on Data Retention is now in force. It requires telecommunications providers across Europe to collect and retain information on all users' activities and keep them for at least six months. The degree of access by state authorities to the data varies in different countries.

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

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

Internet and new media

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

167. However, a Freedom House report “Freedom on the Net” about Internet and Digital media in selected countries, published in March 2009, found that governments in Europe have adopted various means for controlling Internet and mobile phone technologies, including surveillance and the application of laws requiring service providers to retain records of communications traffic.

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

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

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

171. Despite the Turkish government's disapproval, a website set up to offer a collective apology for what was termed "the great catastrophe" to which the Armenians were subjected in 1915 had reportedly attracted more than 28,000 signatures to the public apology letter as of late 2008.

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

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

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

174. In a democracy, reasonable dealings between journalists and politicians and government officials require political openness (Indicator 8.24). However, in some European countries public officials have instead made the relationship into one of open hostility and antagonism. This has sometimes led to the enactment of oppressive press laws (8.1), discriminatory access to information and press events (Indicator 8.4 and 8.5), and in some cases to a climate of intimidation incompatible with European standards.

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

176. Special provisions for extra penalties in cases of insults to senior public officials are also commonplace, contrary to rulings by the ECHR and as set out on Indicator 8.2.

177. In **Azerbaijan**, OSCE FoM has criticised the continued imprisonment of two bloggers, Emin Abdullayev and Adnan Hajizade, charged with hooliganism, terrorism and tax evasion – the OSCE FoM called these "trumped-up charges" and has called for an end to official harassment of both men.

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

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

180. In **Romania** in May 2007 President Traian Basescu, angered at being filmed while shopping in a supermarket by a woman journalist using her mobile phone, snatched the phone. Later the phone was returned to the journalist and it was found on the recording that the president, who had not switched it off, had called her a “dirty gypsy” and other insults. The President apologised.

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

182. Many media and other international organisations that promote open exchanges of all kinds with Russia are shocked that contracts with international broadcasters, including the BBC and Radio Liberty/Radio Free Europe, for re-broadcasting programmes from abroad via good-quality FM frequencies have been ended, depriving Russians of an established source of information and contact beyond Russia’s borders. (Indicator 8.17)

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

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

185. On 13 November 2007 a cartoonist Guillermo Torres and writer Manuel Fontdevila were fined 3000 Euros in **Spain** for defaming Crown Prince Felipe in a cartoon published in the satirical weekly *El Jueves*. The whole week’s edition was ordered to be taken off the newsstands on the grounds that it insulted the royal family.

186. In **Turkey**, Prime Minister Recep Tayyip Erdogan and members of his government have been seen to conduct a campaign of harassment of the country’s largest media conglomerate, the Dogan Media Group, which has taken an oppositional stance towards the present government. The Prime Minister has called publicly for readers to boycott its publications. And in 2008 several journalists working for the Dogan Group, including the newspaper *Milliyet*, complained that they were denied accreditation or access to press events with Prime Minister Erdogan after he was reported to have ordered them to be blacklisted. (Indicator 8.4)

187. In September 2009 the Turkish Finance Ministry imposed a crushing fine amounting to 1.74 billion Euros (2.5 billion dollars) for alleged tax irregularities on the business. Shortly afterwards reports said the fine was being increased further by some 30 percent to take account of interest and penalty charges. The IPI National Committee in Turkey said that the size of the combined fines demanded by the government exceeded the total value of the media group itself, and therefore amounted to a direct seizure and liquidation of a media organisation. The European Commission has condemned the fine as excessive and a danger to media pluralism and to freedom of speech.

188. In January 2009 the IPI criticised attempts to prosecute Turkish cartoonists for lampooning senior government figures. In January 2008 two cartoonists for *Cumhuriyet*, Musa Kurt and Zafer Temocin, faced criminal proceedings over caricatures of Turkey’s president, on the grounds that they insulted the head of state. Such actions contradict Indicator 8.2, which says that state officials shall not be protected against criticism or insult at a higher level than ordinary people, in line with rulings by the ECHR.

Public Service Broadcasting

189. The Council of Europe re-affirmed, in the Political Declaration at the ministerial conference in May 2009, that public service media are a fundamental part of the media landscape in the democratic societies of Europe. Their importance lies in their guaranteed editorial independence and institutional autonomy, which helps to ensure media diversity. The ministers stressed that by virtue of their statutory independence and public role, public service TV and Radio broadcasting media can counterbalance the misuse of power in situations of strong concentration of the media.

190. Indicator 8.20 and 8.21 respectively underline the need to protect PSB against political interference by statutory rules and internal culture of fairness, balance and independence.

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

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

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

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

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

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

197. The independence of Public Service Broadcasting in France is threatened, Article 19 says, by a new system imposed in 2009 by President Sarkozy whereby he himself may appoint the head as well as the top broadcasters on the French public TV broadcasting networks. The changes provoked a lengthy strike of Radio France International staff in March 2009, against 200 expected job losses.

198. Russia's state-dominated broadcasting structure is far removed from the concept of public service broadcasting based on clear impartiality rules and statutory independence.

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

INDICATORS FOR MEDIA IN A DEMOCRACY

CATEGORY C – Journalists and civil society, professional standards and ethics

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

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

Economic and ownership pressures

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

203. The drastic fall in advertising and sales revenues for mainstream media has been made more acute by the financial crisis of late 2008.
204. Media freedom is directly challenged when media outlets are taken over by owners whose main goal is either political advantage or financial profits, rather than the long-term welfare and reputation of the organisation and its employees. (8.13).
205. In France, ownership of several leading national newspapers has recently moved into the hands of business conglomerates with much-publicised ties to the government. In June 2007 France's three main media unions voiced concern about the danger of media manipulation by big business interests, and called for new guarantees of editorial independence.
206. Elsewhere, including in Italy and Russia, media observers identify the phenomenon of a "fusion of political and media power" in the hands of particular individuals or political forces, which hampers media pluralism and independence. (Indicators 8.16, 8.18, 8.19 and 8.22)
207. The International Federation of Journalists (IFJ) has also raised the alarm about the growing insecurity of journalists' jobs and the big increase in the number of journalists obliged to work as freelancers or on short-term contracts, making them more vulnerable to pressures to adapt their work to please editors or their news sources. (8.21, 8.26).
208. In many states trade unions still complain of unfair treatment or lack of recognition (8.12), when they demand that work contracts or guarantees of editorial independence are fulfilled. In Turkey in June 2009 broadcasting members of the journalists union Haber-Sen trade union issued a statement protesting against effective government control of the public broadcaster TNT (8.11, 8.20).
- Professional and ethical misconduct, public trust in media (8.12, 8.25 and 8.26) and national reviews of laws restricting freedom of expression (8.27)*
209. Media freedom in a democracy depends in part on the maintenance of good professional standards, which in turn fosters public trust. In states which enjoy a free press, self-regulation is widely accepted in place of state controls and intervention.
210. However only about half of the Council of Europe member states have Press Councils or other self-regulatory bodies which can claim to have effective authority and clear ethical as well as legal standards for the practice of journalism. In many cases the protection of privacy is weak and inadequate.
211. All over Europe leading media outlets have been criticised for lapses in journalistic standards, including misleading reporting, manipulation of TV quiz shows for the sake of ratings or profit, an excessive focus on celebrity and sensational crime, or the failure to keep up standards of taste and decency.
212. Acknowledging this, the IFJ in 2008 launched an Ethical Journalism Initiative to recover standards of truth, fairness, independence, and professional social responsibility. The IFJ stated that many media have failed to meet important challenges. Instead of raising awareness and challenging ignorance about people from other racial or faith backgrounds, it says, many media stoke the fires of intolerance and racism. Such behaviour helps to bring journalism into disrepute, especially if, as in a number of unfortunate cases, it involves actual law-breaking.
213. The Association of European Journalists, in a 2008 survey of trust in media across Europe, found that a major reason for the decline in that level of trust is the popular belief that journalists do not report truthfully and independently. The AEJ highlighted the resignation of eight journalists working for Russian state television resigned in protest at a new policy of excluding from the airwaves a list of opposition figures on an official "blacklist".
214. In most states, keen debates about the media have focused on high-profile disputes between mainstream media and politicians, and on other issues such as digital switchover. Genuine reviews of the condition of media freedom and the causes of major violations could have positive effects, provided they are conducted fairly and with full participation by genuinely independent media as well as politicians and officials (8.27). To have credibility, the reviews must lead to the repeal or correction of laws and practices which are shown to break states' commitments on freedom of expression.
215. It is important that states promptly and willingly fulfil their commitment to conduct thorough and open reviews of their national laws to ensure that any impact of anti-terrorism measures on the right to freedom of expression and information is consistent with Council of Europe standards, as agreed in the relevant Resolution at the May 2009 Reykjavik ministerial meeting, MCM (2009) 011.

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

217. This analysis indicates that more should be done to raise awareness about the dangers of such a diminution of fundamental journalistic freedom in the wider public. The civil powers of journalism as a vital element in sustaining democratic freedoms need active protection and the Council of Europe is the appropriate body to take such a lead. Article 10 of the European Convention on Human Rights enshrines the principle of freedom of expression for all the 47 member states, but its force as a shield for that fundamental right has been weakened. The Assembly may wish to consider new and additional ways of defending and promoting media freedom and independence.

Professor Jackie Harrison, chair of the Centre for Freedom of the Media at the University of Sheffield (UK) contributed to this Report.