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## COMMITTEE ON CULTURE, SCIENCE, EDUCATION AND MEDIA

### The state of media freedom in Europe

Rapporteur: Mr Mats JOHANSSON, Sweden, European People's Party Group

#### Background report

prepared by William Horsley<sup>1</sup>, Media Freedom Representative of the Association of European Journalists and International Director of the Centre for Freedom of the Media, University of Sheffield, UK

#### OVERVIEW ON VIOLENCE, HARRASMENT AND INTIMIDATION OF MEDIA WORKERS

This report covers developments during a period of five months from mid-June to mid-November 2012; it updates my full report of 26 June which recorded developments since late 2009 (document AS/Cult (2012) 29).

In the period covered cases of violent physical assaults, harassment and direct intimidation against media workers have continued unremittingly in Russia, Belarus, Ukraine and parts of south-eastern Europe.

The areas of most concern during this period are broadly the same regions where, as was set out in the June Report, targeted violence against journalist has become routine in recent years.

The period since June 2012 has again been marked in those regions by persistent patterns of state behaviour involving the enforcement of oppressive or ill-defined laws, and abuses of authority including arbitrary detention and excessive use of force against media workers, bloggers and others who exercise their civil and political rights, including the right to express their opinions freely.

This Report shows that much of that violence has occurred at the hands of police or other public officials, who are also responsible for enforcing the laws.

On 23 July the South East Europe Media Organisation (SEEMO), an affiliate of the International Press Institute, made a public statement protesting against a series of accusations and insults by political figures directed at journalists, often in intemperate or intimidating language.

Examples were cited of words spoken in public arenas by senior government figures in Romania, Bulgaria, Serbia and Bosnia and Herzegovina (Republika Srbska).

The persistent and in many places worsening situation is reflected in detailed reports by national and international monitoring bodies, and points to the conclusion that more effective responses from European governments are needed.

The infringements of the rights to freedom of opinion and expression as set out in the European Convention have become increasingly widespread and pervasive.

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<sup>1</sup> The views expressed in this document are those of the author and do not necessarily reflect the position of the Council of Europe.

## ARMENIA

Violence, obstruction and legal harassment against journalists, carried out both by public official and others, have been widely documented in independent reports about the situation of the media in Armenia in recent years.

The government enacted a number of reforms in response to criticism of past practices. Events in the second half of 2012 show that these reforms have so far brought mixed results.

Seven cases of violence or harassment of journalists were recorded during the parliamentary elections in May 2012. Subsequently four court cases brought under Article 164 of Armenia's Criminal Code, on "Hindering reporters from carrying out their professional activities" served as test cases of the administration's ability to deliver transparent justice.

In the case of an assault on Elina Chilingaryan, a reporter with Radio Liberty, the case was dropped after the court found that the reporter had not been wearing her press identification at the time of the alleged assault. That ruling was criticised as arbitrary by concerned media and NGOs.

In three other cases official investigators had failed, by the beginning of November, to identify any suspects. Armenian media have questioned whether any serious investigation had actually taken place at all. It has been noted that in the case of Varazdat Papikyan, a cameraman for Kentron TV who had his camera snatched from his hands while covering the poll, the incident was reported to the police by a third party who was present at the time.

Following the de-criminalisation of libel in 2010, the number of libel and defamation cases resulting in large or crippling awards of damages to plaintiffs has fortunately dropped.

Armenian journalists' groups note that improvements followed a decision of Armenia's Constitutional Court in November 2011, when several public officials failed to win the high compensation awards they had expected. Hopes have been expressed that such decisions may represent a proper consideration for European norms, including the jurisprudence of the European Court of Human Rights.

However, Armenian journalists who reported to the Association of European Journalists on these developments in October expressed strong concern that Article 1087 of the country's Civil Code represents an impediment to legitimate reporting work because it states that only information from an officially recognised source may be cited in media reports.

On 27 April 2012 Armenia's Court of Cassation ruled publicly that on the basis of the above law reporters would face the risk of legal action if they relied on sources of information other than those approved under the law.

More transparency and higher standards of law-enforcement and judicial processes appear to be needed if Armenia is to fulfil its obligations with regard to press freedom and the safety of media of workers.

## AZERBAIJAN

In Azerbaijan, international concern expressed at the conviction in a Baku court in June on drugs-related charges of Anar Bayramli, a correspondent for the Iranian broadcaster Sahar TV. CPJ and other NGOs have condemned the charges as fabricated and published details pointing to grave procedural errors in the conduct of the trial.

Bayramli was sentenced to two years in jail, which in August 2012 was reduced to one year. He had been held in police custody pending trial since February 2012.

Reporters without Borders wrote that Sahar TV and other media outlets for which Bayramli has worked are highly critical of the Baku government and indulge in propaganda on behalf of the Islamic Republic of Iran.

The Azerbaijan authorities have also been accused by leading NGOs of fabricating evidence in the case of Hilal Memedov, the editor of Talyshi Sado, an ethnic Talysh newspaper.

Mamedov has been detained since his arrest on 21 June 2012 on charges of possessing drugs. Media reports quoted his family as saying that the police had planted drugs which were found in his apartment. He was later reportedly charged with other offences including incitement to hatred and treason.

#### *BELARUS*

Fresh evidence of the unreasonable use of violence by state authorities against members of the media came to light following police actions during an anti-government protest on 18 September in Minsk. AP photographer Andrei Grits suffered facial injuries when he was reportedly beaten by agents in plain clothes, and other journalists were also beaten or manhandled.

Seven journalists including Grits were forced into a vehicle with no license plates and taken to a police station, where equipment was confiscated and some recordings were deleted.

The Belarus Association of Journalists named the six other journalists as Reuters photographer Vasilij Fedosenko; cameraman Dmitry Rudakov and reporter Aleksei Akulov of the German station ZDF; Tatyana Zenkovich of the European Pressphoto agency; Pavel Podobeda of the Belarus news agency BelaPan; and independent journalist Aliaksandr Borozenko.

Five articles in the country's criminal code covering libel and defamation (Articles 188, 189, 367, 368 and 369) are seen as violating European norms and should therefore be repealed.

They include articles giving special protection in law to the president and other authorities of Belarus (367, 368 and 369).

A journalist, Andrzej Poczubut, faces a serious risk of being sent to jail in case he is found guilty of the criminal charges being brought against him for libel against President Lukashenko in relation to several of his written articles.

In July 2012 Anton Suryapin, a journalism student, was arrested and told he faced criminal charges after he organised a stunt in which a plane dropped hundreds of teddy bears over Belarus carrying free expression slogans. He photographed the teddy bears and posted the pictures on a photo news website in Belarus.

Two female journalists were reportedly arrested and fined for carrying out an unsanctioned protest after posing for a photograph with one of the teddy bears.

#### *BULGARIA*

In Bulgaria threatening written messages were sent on July 31 2012 to Spas Spasov, an investigative reporter for the daily newspapers Capital and Dnevnik.

The South East Europe Media Organisation (SEEMO), reported on 14 August that prosecutors had announced the closure of a fruitless two-month investigation into an arson attack on 25 May against the car of investigative journalist Lidia Pavlova.

Pavlova was quoted as saying it was clear who ordered and carried out the arson attack as well as previous attacks on her and her son. She was also quoted as saying that a witness to the attack was too afraid to testify.

#### *GEORGIA*

In Georgia, the 1 October parliamentary elections produced a significant change in the political landscape with the victory of the Georgian Dream coalition which is united in opposition to the country's serving president, Mikheil Saakashvili.

The International Election Observers described the campaign as tense and marked by harsh rhetoric and some instances of violence. The observers were critical of the lack of balanced news coverage on TV channels, with the sole exception of the Georgian Public Broadcaster (GPB).

But the observers gave a broadly positive assessment to the relatively open consultative process which resulted in an agreement aimed at answering opposition complaints about a lack of access to media at

election times. A so-called “Must Carry, Must Offer” provision was adopted, which obliged cable networks and satellite content providers to include a wide range of media outlets on their platforms.

The Observers also applauded the active involvement of a large number of domestic observer organisations and civil society throughout the election process, which they said enhanced its overall transparency.

### *GREECE*

On 12 November, SEEMO issued a protest against what it said was an increase in physical attacks and unwarranted official pressures on Greek journalists.

In one of the recent cases, on 4 November TV Skai journalist Michalis Tezaris was beaten in Athens while photographing a group of assailants attacking immigrants and their property.

SEEMO also detailed three cases during October of police detentions of journalists whose reporting had sought to expose large-scale official fraud, alleged torture by police of left-wing protestors and possible tax evasion.

Among these was the case of Costas Vaxevanis, who was charged with breach of privacy after he published a list of more than 2000 names of Greeks who allegedly held bank accounts with HSBC bank in Switzerland. SEEMO points out that Greek authorities have faced accusations that they failed to take steps to investigate whether those on the list were evading taxes by holding undeclared offshore accounts.

Vaxevanis faced a possible jail sentence of up to two years if found guilty. Instead he was acquitted in an Athens court on 1 November, after the prosecution declined to produce witnesses to testify against the accused.

But on 16 November it was reported that prosecutors intended to appeal against the verdict. It should be borne in mind that Council of Europe standards and rulings of the European Court of Human Rights accord much importance to the issue of the public interest that may be served by disclosures in similar cases.

### *HUNGARY: MEDIA LAWS*

The package of media laws enacted in Hungary in 2011 continues to place the country at loggerheads with the Council of Europe, as well as the OSCE and the European Union.

The amendments passed by the Hungarian parliament on 24 May failed to answer the serious objections of the European institutions and of other Council of Europe states.

In an interview published on 7 June in the Hungarian paper Figyelo the vice-president of the European Commission Neelie Kroes said that the package of amendments had addressed only 11 out of 66 recommendations made by the Council of Europe.

The amendments had failed to guarantee the independence of the Media Authority or to clarify ambiguities, Ms Kroes said.

### *ITALY*

Italy’s record on press freedom matters was again under scrutiny after the decision on 28 September by the Court of Cassation, the country’s highest court, to uphold an earlier conviction and 14-month prison sentence for defamation handed to Alessandro Sallusti, the then editor of *Il Giornale* newspaper.

The court ruling was widely condemned as contrary to Italy’s commitments on press freedom and as a dangerous precedent, although the article at the centre of the libel suit also came under strong criticism.

The case arose out of an article written anonymously by Sallusti under the pseudonym “Dreyfus” and published in 2007 in another right-wing journal, *Liberò*, of which Sallusti was then the editor.

The article attacked the decision of a judge who had granted a 13-year-old girl the right to have an abortion, and it included wording suggesting that if Italy had the death penalty it should be applied to the parents, the gynaecologist and the judge.

Following the ruling, Sallusti resigned from *Il Giornale*, which belongs to the family of former Italian premier Silvio Berlusconi.

Italy is one of many European states whose criminal law includes penalties for defamation, despite concerted attempts by the Representative on Freedom of the Media (OSCE RFOM) and others to persuade all European governments to remove all criminal statutes for libel and defamation. Italy is one of only very few, which actually threaten to put journalists in jail for damaging a person's reputation.

On 16 November the OSCE RFOM revealed that she had written to Italy's foreign minister, Giulio Terzi di Sant'Agata, calling on the government to withdraw a draft bill currently before parliament which would re-introduce a prison term as a possible penalty for defamation.

## *KOSOVO<sup>2</sup>*

On 10 July 2012 Halil Matoshi, who works for *Koha Ditore* daily, was beaten by three unidentified men in a street in Pristina.

## *MOLDOVA*

On 5 August 2012 Victoria Ocara, a journalist for *Jurnal TV* channel, was struck on the head by a stone thrown by a demonstrator while she was reporting a street confrontation involving two rival groups of demonstrators.

## *MONTENEGRO*

The preliminary findings of the International Election Observation mission on the early parliamentary elections held in Montenegro on 14 October 2012 found that national media are divided along political lines. Media and civil society representatives expressed concerns about the influence exerted on media by political forces and media owners. No body, the Observers found, exercised effective oversight of media compliance with the electoral law during the campaign.

In October, SEEMO called on all politicians in Montenegro to put a stop to physical and verbal attacks on journalists. The statement followed an incident during the election campaign when a journalist working for the daily newspaper *Vijesti*, Goran Malidzan, was verbally attacked and punched at an election campaign rally being addressed by the Prime Minister Igor Luksic.

## *RUSSIAN FEDERATION*

During the period under consideration one murder of a journalist, that of Alexander Khodzinsky on 7 July in the Siberian town of Tulun, appears to be a targeted killing on account of the journalist's work. The Glasnost Defense Foundation and Reporters without Borders report that the 74-year-old Khodzinsky was found dead with stab wounds.

Khodzinsky had been investigating allegations of corruption and abuses of authority among local officials. A former deputy mayor, Gennady Zhigaryov, was arrested on suspicion of homicide soon after the journalist's death.

The Glasnost Defense Foundation (GDF) recorded a total of 41 physical assaults against journalists and other media personnel during the five-month period under scrutiny. In the month of October nine separate physical assaults on journalists or editors were recorded.

Among them were two attacks against journalists of the independent *Novaya Gazeta* newspaper who attended polling stations to watch for electoral irregularities during local legislative and administrative elections on 14 October.

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<sup>2</sup> All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

GDF's records showed that the assaults against Sergei Yezhov in Ryazan and a reporter, Aleksei Sherementyev, in Saratov in the Volga region, were among a large number of cases of violence and other alleged abuses targeting members of the media who attempted to monitor local polling.

The GDF also publishes detailed evidence from across the country about other infringements of legitimate press freedom. During October 2012 alone, GDF recorded six cases of journalists being detained by police, 32 cases of harassment or undue pressure on journalists, 53 instances of journalists being denied access to government buildings or barred from recording or asking questions, and 11 cases of violent and intimidating threats.

One of the targets of abusive and violent threats is Tatyana Lokshina, the deputy head of the Moscow Office of Human Rights Watch, who also received threats on her mobile phone against her unborn child. International PEN and the Russian branch of PEN have publicly called on Russian law-enforcement agencies to ensure the safety of Ms Lokshina by providing physical protection.

The adoption in July of new laws restricting freedom of expression and assembly appears to be evidence that the Russian government has grown more intolerant of dissent; some of its legislative and administrative actions in this field appear to be incompatible with Russia's commitments under international law, the European Convention and Russia's membership of the OSCE.

The year 2012 has seen the enactment of provisions for extremely high fines aimed at discouraging public political protests.

It may be recalled that international election observers reported after Russia's most recent parliamentary and presidential elections that both were seriously flawed by media bias in favour of the ruling group as well as fundamental unfairness in the electoral process.

On 13 July, only seven months after Russia de-criminalised libel, the State Duma voted to approve a new law which revives criminal penalties for certain types of libel, including offences against judges, prosecutors and law-enforcement officials. The legislation was enacted later in the same month.

The new law provides for fines of up to 5 million roubles (over \$150,000), but not for imprisonment.

These provisions give rise to special concern in the light of the ample evidence of past abuses of authority by Russian law-enforcement officials, including police and prison officers, and the growth of a culture of impunity in Russia which has led to unprecedented public protests.

The case of the death in custody in 2009 of the lawyer and whistle-blower on corruption Sergei Magnitsky, and the subsequent failures to bring those responsible to justice or correct the fundamental weaknesses of the justice system, are widely seen as a symptom of widespread pattern of injustice and failure of the rule of law in Russia.

The seventh of October 2012, the sixth anniversary of the murder of the well-known investigative journalist Anna Politkovskaya on that date in 2006, passed without anyone being convicted for her killing.

In July prosecutors charged retired police officer Dmitry Pevlyuchenkov with complicity in the murder as a member of a criminal gang. On 15 November Russian media reported that the prosecutors had decided that the case was to be sent to trial, but no date for it was announced.

Following the collapse in 2009 of an earlier trial of a group of men suspected of involvement in the murder because of multiple irregularities and inadequate evidence, credible progress in resolving the case to bring to justice the masterminds as well as all others responsible is keenly awaited.

In August a Moscow court passed two-year prison sentences on two members of the punk band Pussy Riot for hooliganism motivated by religious hatred, after members of the band had staged a provocative protest against President Vladimir Putin in a Moscow cathedral.

The verdict and sentences revived criticism that Russia's courts often carry out the wishes of the highest political authorities but fail to uphold the normal safeguards of free speech under the European Convention.

Doubts about the safeness and impartiality of the verdicts and sentences were re-inforced by the decision to force Maria Alyokhina to serve her sentence in one of the harshest prison camps in Siberia, and Nadezhda Tolokonnikova to serve hers in another notoriously harsh prison in Mordovia. Both women are the mothers of young children.

The court's procedures were criticised after the judge refused to allow defence lawyers to call experts and cathedral staff as witnesses to plead for their clients.

There is a pressing need for the Russian authorities to demonstrate their commitment to due legal processes and judicial independence in cases involving members of the media following the disturbing case in June 2012 in which the deputy editor of the independent newspaper Novaya Gazeta, Sergei Sokolov, declared that his life had been threatened during a private meeting with Russia's Investigative Committee Chief, Aleksandr Bastrykin.

The journalist had published an article alleging misconduct by Bastrykin and other law-enforcement officials, in particular their failure to investigate and resolve a number of cases of killings of Russian journalists in recent years.

### *SERBIA*

Serbia has seen an upsurge of attacks against journalists in recent weeks that appear to be aimed at discouraging those who report on corrupt or criminal matters.

On 16 October a petrol bomb was thrown at the Belgrade home of Damir Dragic, an investigative journalist for the daily newspaper Informer, which destroyed a car belonging to his family.

In the early hours of the morning of 23 October another firebomb was thrown onto the terrace of Biljana Vujovic of TV Kopernikus. Vujovic was able to extinguish the fire quickly, but without this prompt action the fire could have been life-threatening.

And on 30 October an explosive device was placed near the family home of Tanja Jankovic, a journalist with the B92 TV station in Vranje in southern Serbia. The device did not explode.

September 15 saw the latest in a series of attacks and personal threats directed at Vladimir Mitric, a reporter for the daily Vecernje Novosti living in Loznica, western Serbia, who is known for his work reporting on official corruption.

On that date, SEEMO reports, Mitric was accosted in a café and threatened by an unidentified man. Despite the fact that Mitric was in the company of a policeman charged with his personal protection, a short time later the aggressor was able to seek Mitric out again at another place, where he again berated the journalist over his writings.

Mitric has been granted round-the-clock police protection since he was beaten up by a former policeman in 2005.

SEEMO has called for effective police investigations into the series of incidents. Otherwise, SEEMO Secretary General Oliver Vukovic said "it may well be assumed that attacks against journalists will simply go unpunished, as has often happened in the past".

### *SPAIN*

In the second half of 2012 a routine obstructive practice by government and political party authorities has continued – namely the practice of staging "press conferences" and other media events at which no questions or interviews are permitted, and of seeking to ban journalists from creating their own coverage material through video, audio or still photographs of events and of stories of public interest.

Spain's political parties have failed to remedy this blatant infringement of media freedom and of the public's right to access to diverse sources of information, despite protests by the Spanish Federation of Journalists (mentioned in Para 7 of the Report on the State of Media Freedom by the Rapporteur for the Committee) and by the Spanish Section of the Association of European Journalists.

The AEJ recorded during its 50th anniversary Congress in Italy on 27 October 2012 that its Spanish members again raised strong complaints about this disturbing pattern of restrictions on free reporting by the media, and their comment that this especially distorts the reporting of elections.

The Final Report of the OSCE/ODIHR Election Assessment Mission for the November 2011 early parliamentary elections reported that some smaller political parties complained to the public broadcasters about limited access.

The Mission concluded that “The authorities could consider the consistent monitoring of the media coverage of the electoral process, with a view to ensure that media regulations on electoral campaign coverage are fully respected.”

Evidence suggests that the enforcement by government and political parties of their own arbitrary rules limiting access to sources of information amounts to a serious and ongoing infringement of legitimate freedom of the media, which merits urgent attention.

Critics of the Spanish government’s handling of media matters have also suspected that political interference lies behind the recent removal from positions in the national RTVE broadcasting organisation of several journalists who have openly questioned the administration’s management of the nation’s economy.

One of them is Ana Pastor, the former presenter of TVE’s popular breakfast programme, whose departure was announced in August.

It has been reported that following a change in the law making it easier for the governing party to choose its own appointees for senior RTVE staff, a number of staff changes have been made to reflect the political preferences of the ruling Popular Party.

#### *TURKEY: IMPRISONMENT AND PROSECUTION OF JOURNALISTS*

On 1 August 2012 the Committee to Protect Journalists (CPJ) drew fresh attention to the widespread criminal prosecution and jailing of journalists in Turkey by publishing its case-by-case review of imprisoned journalists.

CPJ’s findings were that a total of 76 journalists were in jail at that date, of whom at least 61 were being held as a direct consequence of their published work or newsgathering activities. CPJ said it would further investigate the cases of the 15 others because the evidence about them was less clear.

Its report states that Turkey, which proclaims its commitment to democracy, is nevertheless the state which holds more journalists in detention than any other, including Iran, Eritrea and China.

Following the publication of the CPJ report the Turkish government acknowledged that over 60 journalists were in prison, either serving jail sentences or awaiting trial. However the Ministry of Justice continues to claim that the individuals concerned are in detention because of terrorism offences or other forms of criminality, and not because of their activities as journalists.

In April 2012 the Office of the OSCE RFOM had expressed grave concern that according to its own research the number of journalists in Turkish jails had risen from 57 a year earlier to a total of 95 individuals, most of whom were accused of terrorism-related offences.

The release in recent months of a number of jailed journalists being held in pre-trial detention has been duly welcomed.

However, CPJ’s inquiries found that the Turkish authorities routinely conflate reporting by the journalists about certain banned organisations with actual terrorist offences or other anti-state activities.

It said: “Basic newsgathering activities – receiving tips, assigning stories, conducting interviews, relaying information to colleagues – were depicted by prosecutors as engaging in a terrorist enterprise.”

CPJ also deplored the fact that in addition to those cases which result in actual detention, the Turkish authorities have launched literally thousands of other prosecutions on charges such as denigrating Turkishness (Article 301) and influencing court proceedings.



The Turkish government's July 2012 package of reforms of the penal code had reduced penalties for certain offences and altered some other practices. But CPJ concluded that the reforms "do not fundamentally change the anti-terror law or the penal code in ways that would rid them of the broad, ambiguous language used to silence critical news and dissenting opinion."

These conclusions conform to previous assessments by the Council of Europe's Commissioner on Human Rights and the OSCE RFOM.

The April 2012 report published by OSCE RFOM also expressed concern that journalists in detention "are often imprisoned in F-type security prisons where they have to serve their time with the most dangerous criminals. It is also not uncommon to punish journalists with solitary confinement for extended periods of time."

It is clear that as a result of these hostile conditions large numbers of independent journalists in Turkey have been forced either to stop working entirely or to censor their own work in order to avoid the very real danger of prosecution.

## *UKRAINE*

In Ukraine, during the campaign for the 28 October parliamentary election media workers were the target of a worrying pattern of assaults, arrests, prosecutions, harassment and obstruction of their professional work by politicians and public officials.

Ukraine's Institute of Mass Information (IMI) recorded a total of as many as 185 violations, including 37 cases of violent assaults or intimidation between July and October 2012. The IMI reports that journalists who tried to report on election abuses such as the paying of bribes to voters were made the targets of many attacks and other forms of harassment.

The IMI's Election Campaign Report lists 16 cases of obstruction to journalists which prevented them from entering polling stations or places where the votes were counted. Several cases involved allegations that reporters were barred or removed from sites by election officials who were suspected of destroying or tampering with ballots.

A preliminary statement on the Ukrainian elections by the International Observers mission, which included the OSCE Office for Democratic Institutions and Human Rights (ODIHR), said that the election was marred by a lack of balanced media coverage, as well as the abuse of administrative resources and the lack of transparency of campaign and party financing.

The Observers found that media coverage on state-owned television favoured the ruling parties, and that so-called 'envelope payments' – bribes – paid to journalists by media owners and political actors had undermined the media's role as a watchdog over political power.

In November 2012 it was reported that the management of the Ukraine National News Agency reprimanded two of its journalists and ordered them to pay a 200 hryvanas (20 euros) fine for posting a derogatory article about President Yanukovich on the agency's website.

Editors of the agency's website disclosed that the fines were imposed on the two employees as a consequence of an instruction to staff from managers forbidding them from writing negatively about the country's president.

The International Federation of Journalists (IFJ) and European Federation of Journalists (EFJ) publicly condemned what they called censorship of journalism critical of the head of state.

The AEJ's Ukrainian Section reports that fear of losing their jobs has forced many Ukrainian journalists to stay silent about the intense political as well as economic pressures that they face in their everyday work.

It was also reported that many journalists who took part in the Stop Censorship! campaign, whose declared aim was to expose and reverse Ukraine's slide towards the suppression of free speech, are no longer able to work for broadcasting or press outlets that are owned by the government or powerful oligarchs who support the government.

## UNITED KINGDOM

On 29 November Lord Justice Leveson announced his recommendations after completing a lengthy public inquiry, ordered by the government, into the culture, practices and ethics of the UK press. The Inquiry followed a series of scandals related to illegal phone-hacking, gross intrusions into the privacy of individuals, and alleged illegal payments to public officials by certain newspapers, as well as admissions by senior politicians that they had grown too close to the press for their own advantage.

Lord Leveson proposed a tougher, independent system of press self-regulation, backed by legislation which would grant a separate auditing body the power to intervene if it judged that the system was failing to meet expected standards. The main political parties declared themselves divided on whether to proceed swiftly to enact legislation.

Many of the proposals in the Leveson Report were widely welcomed by the public and the press. But a strong body of opinion among the media and human rights organisations condemned the prospect of a new press law as a step back towards government licensing of newspapers, which was abolished in Britain in 1694 in recognition of the vital importance of press freedom as a pillar of democracy.

The UK government's proposal to create a new category of secret courts, out of sight of both the media and the public, to hear cases against terrorism suspects has provoked powerful opposition from human rights advocates and from parliament.

In mid-November 2012 parliament's joint committee on human rights said the draft Justice and Security bill would be a radical departure from the UK's constitutional tradition of open justice and fairness.

The measure was triggered by important cases such as that surrounding the treatment of Binyam Mohamed, a UK resident and terror suspect, who claims to have been unlawfully subjected to cruel and inhuman treatment; and by the efforts of other British citizens and residents to win compensation for their incarceration for long periods in Guantanamo Bay and other prisons where they were taken under the American CIA's programme of extraordinary rendition.

The government argues that secret courts are needed in order to be able to hear and adjudicate on such sensitive cases without giving away the identity of witnesses and informants, including members of the intelligence and security services.

## **THE INTERNET: FREEDOM OF EXPRESSION AND THE LAW**

Two notable cases illustrate the challenge for Internet users and government authorities in handling inflammatory and potentially libellous postings on the Internet.

In September 2012 a crude and poorly-made video entitled Innocence of Muslims, made privately in the USA, was posted on YouTube. The Video portrayed the Prophet Muhammad in an insulting way and it led to angry and violent reactions involving large numbers of people in the Middle East.

Several American embassies were attacked by mobs and four US diplomats in Libya, including the ambassador, Christopher Stevens, were killed.

It is noteworthy that, as in case of violent protests following the controversy over the Danish cartoons portraying the Prophet in 2005, many scenes of mass fury were premeditated or orchestrated by groups bent on causing violence.

On this occasion the often frenzied verbal attacks on the US over a video produced by individuals with no link to any official or mainstream institution were matched by a significant strand of public opinion which deplored the violence. Sizeable anti-violence demonstrations also took place in several countries, including Libya and Yemen.

In the UK a false accusation of past involvement in child sex abuse directed at a former senior British politician, which was fuelled by a flawed report on a BBC TV programme, led to a large number of Twitter users repeating the false allegation on the social networking site.

A lawyer for the public figure concerned, the retired Conservative party treasurer Lord McAlpine, announced that legal action would be brought against anyone found to have taken part in a “trial by tweets”, who would find that their mistake cost them a lot of money.

## **NEW MOVES BY EUROPEAN UNION INSTITUTIONS AND THE UNITED NATIONS PLAN OF ACTION ON THE SAFETY OF JOURNALISTS AND THE ISSUE OF IMPUNITY**

In response to the deteriorating situation regarding media freedom and the ability of journalists to work without fear or undue pressures, this Committee should be aware of significant moves by other inter-governmental organisations to safeguard freedom of expression and press freedom as a fundamental pillar of democracy.

The EU Commission, prompted partly by the crisis over Hungary’s refusal to repeal or amend its new Media Laws to conform with accepted European standards, has sought expert advice to determine the extent to which the European Union can claim and exercise legal competence to enforce compliance with those standards with respect to freedom of expression and media freedom.

The EU Commission acknowledges that such expectations have been raised because the Lisbon Treaty, which came into force in December 2009, incorporates the EU Charter on Fundamental Rights as a legally binding part of the treaty. Article 11.2 of the Charter states simply that “the freedom and pluralism of the media freedom shall be respected”.

Yet the EU Commission has said publicly that it lacks sufficient legal authority to require all the necessary changes in laws related to the media in Hungary or other states whose actions are criticised as failing to respect European standards of free expression or media freedom.

The EU Commission relied substantially on the authority and expertise of the Council of Europe, including the Venice Commission and the Commissioner for Human Rights, for definitive analyses of the issues raised in the case of the Hungarian media laws.

The issue of the EU’s competence in this field and how it may be exercised should be resolved when the European Union accedes to the European Convention on Human Rights, as it is bound to do under the terms of the Lisbon Treaty.<sup>3</sup>

The EU Commission has sought expert advice from the Centre for Media Pluralism and Media Freedom, which is part of the EU-funded European University Institute in Florence; and from an ad hoc 4-person High-Level Group on Media Freedom and Media Pluralism chaired by former Latvian President Vaira Vike-Freiberga. The High-Level Group is due to report before the end of 2012.

Meanwhile the EU Parliament is seeking to promote what its Rapporteur on Media Freedom, Renate Weber, has called a big step forward to strengthen safeguards for media freedom within the 27 EU member states.

The text of a motion for a draft EU Parliament Resolution, dated 8 October 2012, envisages a form of media freedom monitoring covering EU countries; institutionalised EU-level coordination, backed by appropriate sanctions, to ensure the independence and transparency of national media regulatory authorities; efforts to protect journalists from threats and violence; and unspecified mechanisms to impeded threats to media freedom such as partisan control and censorship of the media.

The draft “Report on the EU Charter: standard settings for media freedom across the EU” is available online.<sup>3</sup>

In April the United Nations Chief Executives Board approved the UN Action Plan on Safety of Journalists and the Issue of Impunity, whose goal is to create a safe and enabling environment for journalists and media workers to do their work as an important public good in all countries of the world.

An Implementation Strategy for the Plan is being fleshed out, with input from UN agencies and bodies, member states, media and other non-governmental organisations, at a conference in Vienna on 22 and 23 November 2012.

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<sup>3</sup> [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/pr/914/914699/914699en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/pr/914/914699/914699en.pdf)

The Plan calls for enhanced actions by all relevant UN bodies, as well as member states and civil society; and the involvement of the Council of Europe and other inter-governmental human rights organisations.

One proposal under consideration is the establishment of an International Monitoring Committee made up of representatives of Member States and non-governmental organisations including media and professional monitoring and free expression advocacy organisations, which may conduct a review each year of the record of states' behaviour in terms of protecting freedom of expression, media freedom and the safety of journalists.

## **CONCLUSION**

In the judgement of the author of this report, the Committee of Ministers' statement of early 2012, calling for greater impact and visibility in the Council of Europe's activities in this field, would need to be supported by an effective programme of action if the Council of Europe is to reverse the trend towards the stifling of genuinely free and independent media in significant parts of Europe.

Concerns focus most urgently on measures to stop the unacceptable level of violence targeting media workers; as well as the need to repeal or amend improper laws and to introduce effective transparency and oversight of member states' behaviour with respect to media freedom, freedom of expression and the safety of journalists from physical harm and judicial and administrative harassment.

Representative media and journalists' organisations and expert civil society and non-governmental organisations produce much detailed and well-researched information about the obvious and the often unseen obstacles to the task of reporting on matters of public interest in many Council of Europe member states.

But all too often official sources are either unable or unwilling to give out the information required for media to do their work reporting on matters of public interest, as is necessary in democratic societies.

A vital task at this time is to take steps to improve the provision by governments and other public bodies of prompt and full information on all matters related to media freedom, including measures to ensure the protection of journalists' rights to work without fear or harassment, and on judicial follow-up to cases of intimidation, violence or unfounded prosecutions of members of the media.

Improvements in the transparent publication, collection and access to such information would greatly assist the Committee as well as Council of Europe member states to gain a more complete picture of the factors which are now contributing to the erosion of legitimate media freedom in many parts of Europe.