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*The state of media freedom in Europe*

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# *The state of media freedom in Europe*

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## Abstract

Every year, European journalists are threatened, harassed, attacked or even murdered because of their profession, while the perpetrators of such crimes are very often allowed to go unpunished. European governments, citing the fight against terrorism, have also adopted laws and practices aimed at restricting the freedom of the media to report, and this has led to an increase in the number of journalists and Internet users who have been prosecuted or imprisoned. Journalists have also faced increased criticism over well-publicised lapses in professional ethics. In this overview of the acute threats to press freedom and independence in Europe, delivered to members of the Council of Europe's Parliamentary Assembly, William Horsley argues that the current framework of protection is gravely inadequate; and the Council of Europe should show leadership and resolve in putting in place effective safeguards for the defence of media freedom as an essential pillar of free and democratic societies.

**M**r Chairman, distinguished Members of Parliament, ladies and gentlemen, the media landscape in Europe is changing dramatically, in ways which have undermined the safeguards for media freedom as a watchdog on political and other powerful interests.

In the past year the Wikileaks story showed how the Internet has blown open the global marketplace for information. The conflict between the right to know and the right to conceal has a new battleground.

After scandals within journalism itself, mainstream media face calls to hold themselves to higher ethical standards.

The Arab spring, too, has lessons, for Europe. Those dictators stayed in power through state control of their own media –using censorship as well as torture. And European states stand accused of turning a blind eye, placing self-interest above their principles.

Around the tenth anniversary of the terrorist attacks of 9/11, protests have been heard from journalists and others, who say that over the past ten years Europe has too often turned its back on that belief in the sanctity of individual rights, including freedom of expression, which emerged from the fires of World War Two.

Journalists in some countries say they face an existential threat to their work from sweeping laws on anti-terrorism and extremism which create new walls of secrecy, make the mere possession of information a crime, and have led to unacceptable censorship of the Internet.

Against that, we have heard statements from national politicians and spokespeople for the European Union who defends shortcuts like the European Arrest Warrant, increased scope for phone-tapping and tough counter-terrorism and data detention laws, as necessary to meet continuing threats. Europe's security defences have been made stronger.

The difficulty comes when accusations grow, as they have, that in too many cases, governments in Europe have yielded to the temptation to use their armoury of tough laws either to suppress their political opponents, or else to cover up the misdeeds of governments, or police or intelligence services.

That sensitive issue of the checks and balances, and the oversight of governments' own behaviour, is the particular task of the Council of Europe. It is at the core of the necessary protection of freedom of expression and press freedom. And it must be at the core of any review of

media freedom issues in Europe.

And ladies and gentlemen, *you* can all do more, as elected representatives. More determination is needed to counter the most dangerous threat to freedom of the media in several parts of Europe - the use of murder, violence and intimidation to silence journalists.

Today the family and colleagues of Vasil Klementiev, a Ukrainian journalist known for reporting on crime and corruption, still have no information on what has happened to him, more than a year after he disappeared while out investigating a story on August 11 last year. Only his mobile phone was found, floating in a local reservoir.

Or search the name Oleg Kashin on the Internet and you will find a video which shows a horrific event caught on a closed circuit TV camera. In a dark Moscow street a man is attacked and repeatedly struck with full force by two men wielding metal bars as the victim lies helplessly on the ground. Kashin, an investigative reporter for the Russian newspaper Kommersant, survived, although with terrible injuries. The attack took place in November last year.

The database on deaths of journalists in Russia which is compiled by the Glasnost Defence Foundation and the Centre for Journalism in Extreme Situations shows that since 2005 fifteen journalists have died there in circumstances that suggest work-related killings. The lack of certainty about the exact figure comes from the fact that the majority of murders, of Russian journalists have not been investigated properly. That lack of credible investigations by the proper authorities has been even more extreme in the case of physical assaults that cause injury but do not result in death. It is widely seen as evidence of a pattern of impunity in which journalists are most often the targets of murders that are never solved.

It is imperative that Council of Europe states implement the Guidelines on Eradicating Impunity which were approved by the Committee of Ministers earlier this year. And it is reasonable to expect that they will also take a lead in the process, to be discussed at a UN Inter-agency meeting in Paris tomorrow (September 13), of creating more effective mechanisms to protect journalists and end impunity worldwide.

It is important to say that recent statements by Russia's President Medvedev, condemning the attack on Oleg Kashin and others, and setting up an independent "Investigative Committee" separate from the federal prosecutor's office, to

investigate serious cases including killings of journalists, have at least boosted hopes that the situation may improve, as it must.

As for the countries that made up the old Yugoslavia, when the European Commission – to its credit – hosted a conference in May this year called Speak up! for Freedom of Expression, they heard a torrent of accounts by journalists, of being attacked, harassed and obstructed, as they try to do their work.

Veran Matic, the editor of the Serbian broadcasting station B92, spoke of “powerful political figures and tycoons who have amassed their wealth illegally” and who “now use it against those who are intent on exposing their shady dealings and attempts to rule whole countries.”

At least five journalists in the Balkans are now under round-the-clock police protection because of death threats from the criminal underworld. In Italy the number is even higher.

In Turkey the government acknowledges that over 60 journalists are being held in jail, charged or convicted of criminal offences, mostly accused of terrorism-related offences.

Some have received sentences of over 100 years, and say they have been punished for writing about matters of evident public concern.

The message from many leading journalists from south-eastern Europe was that these problems are now so deep that they can only be solved with help from the institutions of Europe. They look to the European Union, the Council of Europe and the OSCE, and say forcefully that the governments of Europe are failing to give them the support they need.

Media ownership has to be made fully transparent, over-concentration of ownership must be prevented, and the rules to guarantee the impartiality of public broadcasting and systems of allocating other broadcasting licences are now routinely violated and must be properly enforced.

In countries that are inside the EU, too, journalists have clearly warned about the growth of undue pressures on their independence and integrity, from owners or editors or as a result of oppressive media laws – in Italy, France and Hungary, to name only a few.

And what about the errors of the media themselves? Britain provided a test case after the revelations this year that journalists from *The News of the World* had hacked into mobile phone messages left for a missing schoolgirl, Milly Dowler, who was later found murdered; and that thousands of public figures, and ordinary

people caught up in big news events, may have had their privacy invaded in that way.

A picture seemed to emerge of a media empire that had grown so powerful that serious past misdeeds could be covered up, and politicians could be bullied or blackmailed into doing the bidding of a powerful media group in terms of policy decisions, including making it easier for his News Corporation to expand its large stake in the British media landscape without being challenged under anti-monopoly rules.

Two employees of *The News of the World* have served jailed terms, and sixteen have been arrested in a new police investigation.

The British government has ordered an Inquiry, headed by a judge, to investigate the ethics of the media and their relationship with political power, including allegations of corrupt links with the police. The Inquiry is expected to propose a move away from the current weak system of self-regulation to a new system which would, Mr Cameron says, make it “more painful” for the media when mistakes are made.

*Council of Europe states should take a lead in creating more effective mechanisms to protect journalists and end impunity worldwide*

Media and journalists’ organisations are quite properly called on to tighten their codes of ethics, to be responsible to the publics whom they serve. More transparency is being demanded on all sides, and the rules governing decisions about who is a “fit and proper person” to own media, as well as concentrations of media ownership, are being re-examined.

But British politicians have also been warned on many sides not to make use of the present public anger about abuses by sections of the press to seek to take revenge for past injuries at the hands of the media – such as the exposure by a newspaper two years ago of embarrassing details about the way in which many members of parliament cheated on their expense claims. Four MPs and 2 members of the upper house have been jailed for fraud as a result of those revelations.

Modern history gives many examples of how investigative reporting on matters of high public interest had to overcome determined attempts by governments to conceal information and stifle the work of journalists – from the Watergate

scandal in America to the recent revelations about the collusion of European governments in the unlawful CIA programme of “extraordinary renditions” and mistreatment of terrorist suspects.

The rulings of the European Court of Human Rights have recognised the vital importance to democracy of protecting the right of journalists to expose abuses of governmental power, and the obligations of states to protect the freedom of expression as well as the right to life of journalists whose work may put them in danger of physical attack.

That brings us back to the issue of oversight at European level, to ensure that no political or other interest is allowed to own, or destroy, or subvert the independence of the media. The Parliamentary Assembly has done much valuable work to promote legitimate media freedom.

Three years ago the Assembly, recognising the seriousness of the attacks on media freedom and on the safety of journalists in many parts of Europe, drew up a 27-point list of “Indicators for Media in a Democracy.”

The next year, in 2009, I had the privilege of writing a report for the PACE on serious problems with media freedom across Europe.

The Assembly at that time proposed extra measures for the Council of Europe to better protect Article 10, which guarantees the right of freedom of expression, including freedom of the media. In January last year the Committee of Ministers declared its support for a new system of gathering data and openly facing up to actual cases of serious media freedom violations without waiting five years or more for the Human Rights Court in Strasbourg to deliver a judgement on cases.

The results have been gravely disappointing. Member governments have refused specific proposals, which were backed by journalists’ groups and NGOs, to set up a system of systematic monitoring of cases when journalists are targeted with violence or harassment, including abuses of state power.

And the Council of Europe’s committee for standard-setting remains carefully insulated and excluded from the work of monitoring which is done by a completely different department. Logically this is a nonsense.

Similarly, a pledge by ministers at a Council of Europe meeting in Reykjavik in 2009 has still not been honoured: all the Council of Europe governments (except one, which had a derogation) committed themselves then to conducting

regular reviews of their national anti-terrorism laws to ensure they conform to freedom of expression. The Committee of Ministers had already, seven years ago, spelled out the duty of governments to ensure that any anti-terrorism measures must be carefully limited in scope and time, and narrowly defined.

Yet as of now neither of those important pledges has become reality. Let it not be said that any part of the Council of Europe is merely paying lip service to its duty to protect freedom of the media, which is publicly acknowledged to be an essential watchdog of democratic society.

In view of the picture that I have presented to you today, I suggest that more –much more– can reasonably be expected from the organisation which likes to be known as “the conscience of Europe”.

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