**Hearing on
"The state of media freedom in Europe"**

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Introduction

Media are crucial in the protection of human rights. They expose human rights violations and offer an arena for different voices to be heard in public discourse.

Not without reason, media have been called the Fourth Estate – an essential addition to the powers of the executive, the legislature and the judiciary.

However, the power of the media can also be misused to the extent that the very functioning of democracy is threatened. Some media have been turned into propaganda megaphones for those in power. Other media outlets have been used to incite xenophobic hatred and violence against minorities and other vulnerable groups of people.

The way in which national legislation enshrines media freedom and its practical application by the authorities reveal the state of democracy in the country concerned.

Media freedom lectures

To raise awareness about the need for free, independent and pluralistic media, and because of the strong connection between media freedom and other human rights, I launched a series of Media Freedom Lectures during 2011.

Six themes were chosen, corresponding to the broader concerns that have emerged in relation to the freedom of expression in the course of my work; themes which give an indication of the level of protection of media freedom in Europe today.

Protection of journalists and their possibility to work

In recent years, some of the most leading investigative journalists have fallen victim to the most brutal killing: Anna Politkovskaya in Russia, Hrant Dink in Turkey, Georgyi Gongadze in Ukraine and Elmar Huseynov in Azerbaijan.

No effort must be spared to apprehend and bring to justice, not only the actual killers, but also those who ordered these murders. Attacks against one journalist have the devastating effect of silencing many others.

Another source of concern lies in censorship, restrictive laws and other measures to control media which tend to have a chilling effect on the media but also a negative impact on society as a whole, including for the whole spectrum of human rights.

In my "Opinion" on Hungary's media legislation, I expressed concerns regarding the pre-emptive restraints on press freedom in the form of registration requirements and the imposition of draconian sanctions on the media.

Defamation is still criminalised in several parts of Europe. Laws are in place which make it a criminal offence to say or publish true or false facts or opinions that offend a person or undermine his or her reputation. Journalists can be put in prison for what they have reported.

This happened for instance in Azerbaijan, where Eynulla Fatullayev (among others) had been convicted of defamation and sentenced to imprisonment. The European Court found later on that this was contrary to the European Convention of Human Rights.

The European Court of Human Rights underlined that "the imposition of a prison sentence for a press offence will not be compatible with journalists' freedom of expression as guaranteed by Article 10 of the Convention except for exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in cases of hate speech or incitement to violence".

Offences against "honour and dignity" should be decriminalised and dealt with in civil law courts in a proportionate manner. Prison sentences should no longer be enforced in cases of defamation.

Ethical journalism

Sometimes media unnecessarily and unfairly abuse the privacy and integrity of ordinary people through sheer carelessness and sensationalism and thereby cause considerable damage to individuals - for no good purpose at all.

As the scandal of phone hacking in the United Kingdom has shown, competitive pressures that may inadvertently encourage a culture of illegal and unethical activity in the newsroom serves no-one, least of all shareholders and readers.

This is why the media community should be encouraged to develop a system of effective self-regulation based on an agreed code of ethics.

Access to official documents

Journalists who try to obtain copies of official documents from national and local authorities are facing obstacles and outright refusals in a number of countries. This prevents "public watchdogs" from playing their vital role as a safety valve against the abuse of power in both public and private enterprises.

The European Court of Human Rights has already ruled several times on this issue and has consistently made clear that the public has a right to receive information of general interest. The conclusion is that the transparency of public authorities should be regarded as an important element of freedom of information.

Good models are available: single online access point developed in the UK, e-government in Estonia and Greece, existence of an oversight body - such as an Information Commissioner - in Serbia, Sweden and several other countries.

Media pluralism and human rights

We have concerns about diminishing pluralism in the media. In some countries, there is a lack of genuine competition: independent television and radio channels are denied licenses, critical newspapers have difficulties in buying print paper or with printing and distributing their papers.

Another problem can be that the government buys advertisement space only in the "loyal" media, signaling to business companies to follow their lead, with the consequence that independent media are in reality boycotted.

Concentration of media ownership is another problem. If the mass media is dominated by a few companies, the risk for media bias and interference with editorial independence increases.

In Italy, for example, the Prime Minister is the biggest shareholder of by far the largest private television company (through Fininvest which owns nearly 39% of the shares of Mediaset). Its 'Canale 5' is among the two most watched television channels.

Ownership transparency is the most important administrative tool for breaking up monopolies. It is impossible to break up monopolies or regain trust in media freedom if society is not allowed to know who the ultimate owners of the broadcasting firms are.

Public Service Media and human rights

A major threat to media freedom today is the commercialization and monopoly tendencies we see across Europe. Public Service Media have an essential role as a counter-balance to the business-driven entertainment media and media empires. Being independent and non-dependent on advertisers they should also encourage good, investigative journalism and knowledge-based content.

Where there is strong Public Service Media I can see that there is often good quality, ethical journalism. Yet, in many countries in Europe Public Service Media are being questioned – sometime virtual campaigns are conducted against them.

Social media and human rights

The fact that uprisings across the Arab world were to a large extent made possible by social networking, primarily on Facebook, raises a human rights question: if information is flowing freely enough over social networks to precipitate revolution, what protections are in place to ensure that our personal data cannot be trawled from those networks and put to altogether different, less salutary purposes?

Social Networks indeed host a vast and growing repository of personal data, all of it in digital form. It falls to our national and international authorities to ensure that our individual rights to privacy and data protection are not sacrificed to Social Networks, but rather reinforced to recognise and meet the range of new challenges these powerful new media present.

Conclusion

In its Resolution 1636(2008) on indicators for media in a democracy, the Parliamentary Assembly invited me to draw up information reports on member states where problems exist in the implementation of basic principles pertaining to freedom of expression. In recent years, this has been done for instance concerning Armenia, Azerbaijan, Hungary and Turkey.

Conclusions of our work on media-related human rights issues in these and other countries will be summarised in a publication to be released in December or January, in which the lectures and other commentaries will be included.

The Parliamentary Assembly has indeed given important contributions to the protection of media freedom in Europe. My hope is that you will continue to give high priority to these issues, including to the potential gains but also problems coming with the merging new social media.

The list is long:

- There is a need to ensure that killings and other violations of journalists' integrity are seen as serious crimes and thoroughly investigated - and punished.

- There is a need to push for further steps to decriminalise defamation.

- There is a need to encourage a deeper discussion on how to promote ethical journalism.

- There is a need to encourage better and more widespread self-regulation - including of internet-based information.

- There is a need for further steps to ensure access to government documents based on the principle of transparency - ombudsman structures are needed in this field. Whistle blowers and other sources of information should be protected.

- There is a need for a policy to ensure plurality of media, including among the traditional media. Monopoly tendencies need to be countered and there has to be transparency of ownership.

- There is a need to discuss the promotion of genuinely independent and useful public service media – their mandate; their organisation and funding; their accountability.

- There is a need to pursue the discussion about how to ensure protection of individual integrity (data protection) in the social media – without underling the right to freedom of expression.