

Goodbye to Freedom?

*A survey of media freedom
across Europe*

By the Association of European Journalists



Edited by William Horsley

November 2007

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A survey of media freedom in 20 European countries

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AEJ Media Freedom Representative and Chairman of the AEJ UK Section

This Survey is written by journalists active in 20 member states of the Council of Europe, the main guardian of human rights and democracy for the continent. It provides a snapshot of the many different aspects of the continuing struggle for media freedom and independence, including violence against journalists, legal barriers, and distorting political and commercial pressures on media workers. All the countries included are members of the Council of Europe and have committed themselves to upholding the freedom of the media and freedom of expression. The Survey is intended to be a source of information and motivation to journalists, media organisations and government authorities across Europe, in the belief that free and independent media are essential to democracy and the rule of law.

With special thanks to senior staff of Internews Europe (formerly of the Educated Media Foundation, Moscow) for the Report on Russia

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It is also available on the website of the Association of European Journalists www.aej.org and of the UK Section www.aej-uk.org. For any feedback and queries, contact william@aej-uk.org.

The AEJ is an independent, self-funding association for journalists in Europe with more than 1000 individual members in over 20 national sections. It promotes professional contacts across Europe's borders, open debate on European issues, and the freedom and independence of media and journalists in Europe. For further details please visit the AEJ website.

William Horsley was appointed AEJ Media Freedom Representative in June 2007 and has served as Chairman of the UK Section of the AEJ since 2001. He is a former foreign correspondent for BBC TV and Radio.

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INTRODUCTION AND SUMMARY



By William Horsley

The AEJ Media Freedom Survey investigates the relationships between the media and governments across Europe, especially the constraints and obstacles to the media playing their proper role of recording and scrutinising events in public life. The resulting picture is cause for concern. Although some free and vigorous media can be said to flourish in all but a handful of the countries covered, the Survey reveals a picture of a profession and an industry beset by problems of political interference, economic weakness and uneven or doubtful professional standards. The authors of many of the Reports report serious abuses of media freedom and independence – hence the title *Goodbye to Freedom?*

The Survey reveals a common pattern in many countries: journalists and news organisations face multiple barriers to their work from restrictive laws, unjustified interventions by government authorities and a mixture of overt and unseen pressures to manipulate or distort their work. In **Russia** and **Armenia** journalists who seek to investigate official abuses of power face intimidation and real dangers of violence or even death. In many of the countries covered, laws on state secrets and defamation are regularly used to stop journalists from examining the actions of those in power or exposing corruption in various forms. Even in **Germany, the Netherlands** and **Ireland**, countries where the principle of media freedom is highly valued, attempts were made in the past year to punish journalists with prison terms for publishing classified papers on matters of public interest.

The Survey is the result of the determination of members of the Association of European Journalists to take stock of the political and legal framework in which the media now work and to share the information about the barriers they face. Those who work in the media reflect its values and priorities and also help to set them. They now operate under the intense pressures of multi-media working and rolling 24-hour news. Within Europe they work using many different languages. It is not easy to make informed judgements about how they compare with one another or how free they are to work without fear or favour. This Survey is intended to contribute to a better understanding of these things.

The Annual Reports published by media-watching organisations such as the International Press Institute, Reporters Without Borders and Freedom House have provided a valuable reference point for our Country Reports, some of which refer to their findings and to their international rankings of the level of media freedom in the various countries. This AEJ Survey is a snapshot of the media in action in 20 countries, written by active journalists who assess the general health of media freedom in their own country and also draw on their personal experience and observations of the media's relationship with governmental power. The Reports highlight important clashes between governments or the courts and the media and give insights into the informal and unseen ways in which the powerful can shape the media landscape, for example in President Sarkozy's **France** or in **Italy** under the former prime minister Silvio Berlusconi.

Each Report includes a general assessment in an **Overview** of key developments. The authors also write in more depth about one or more chosen **Case Studies**, focusing on particular issues

which represent barriers or limits to media freedom. Each Report ends with a short section called **Conclusion and Future Action**. The AEJ Survey has been produced to be considered and discussed with the OSCE'S Representative on Media Freedom, Miklós Haraszti. Its findings are to be shared with the Council of Europe, the main guardian of media freedom and freedom of expression in Europe, and other interested parties.

The Survey also exposes the uneven record of the media themselves. Robust media freedom can only flourish if journalists defend it by conscientious effort, high professional standards and a willingness to confront those in power with hard questions and determined investigation. This Survey presents evidence that in many parts of Europe journalists are now under intolerable pressure to serve the interests of political forces or commercial interests. The situation is especially troubling with respect to public TV and Radio broadcasting in many countries, where little or no pretence is made to preserve the independence of broadcast news and programmes from political influence or control. Harsh economic pressures and especially the growth of an "army" of freelancers also tend to make journalists more dependent and less able to stand up for the integrity and quality of their work. In some countries trade union membership and influence has been deliberately undermined by employers, making journalists more vulnerable to manipulation or dismissal.

The message from these accounts is clear: freedom of the media is not a birthright, but must be fought for and defended. Unavoidably, the relationship between media and government power is an adversarial one, because the goal of politicians is to win power and keep it, and for them to control the message put out by the mainstream media can be a crucial weapon. The Report on the **Czech Republic** cites the pessimistic view of one senior journalist that the country's journalists are malleable enough that politicians do not even think it necessary to apply pressure to get the media to behave in the way they wish. This Survey shows that media freedom is fragile or weak unless it is exercised.

SUMMARY OF THE SURVEY

These are the main findings of the Survey about the barriers to media freedom in Europe:-

Violence and intimidation directed against journalists is unfortunately common in the two states of the former Soviet Union covered, Russia and Armenia. In **Russia** the failure so far of the judicial authorities to clarify the truth about the murder of Anna Politkovskaya in 2006, and of more than ten other journalists in the past several years, is especially grave. Harsh security and press laws threaten journalists with prosecution or loss of employment, leading to a climate of oppression and acting as a warning to journalists against investigating cases of official corruption or abuse of power. Manana Aslamazyan, one of the authors of the Russia report, was head of the Educated Media Foundation in Moscow until the Russian authorities raided its offices and forced its extensive training operations to end – all in response to a minor infringement of currency regulations. The **Russia** Report cites an example of the "guidance" on coverage given by Kremlin figures to leading editors and journalists. The **Armenia** Report mentions 13 cases of physical violence against journalists. Assaults on journalists have also occurred in Greece and other countries. In **Turkey** a newspaper editor, Hrant Dink, was murdered early this year. In **Spain** many journalists have received death threats from violent Islamist groups and the Basque separatists of ETA.

Criminal prosecution of journalists using secrecy or defamation laws has taken place or been attempted recently in almost all the 20 countries surveyed, despite the OSCE's campaign for libel and defamation laws to be treated as civil not criminal matters. Security laws have been tightened in many states in response to the increased threat of terrorism. The many recent and current criminal investigations and court cases against journalists for leaking official secrets suggests that governments have grown tougher. In **Hungary**, two newspapers were prosecuted for publishing state secrets. But in many cases detailed in the Survey – including in **Germany** and the **Netherlands** – governments themselves stand accused of misusing the law to protect themselves from evidence found by journalists pointing to official deception or incompetence. **Poland** has laws on the statute book allowing special penalties for insulting the country's President. A similar law in **Spain** specifically outlawing insults against the Royal Family was used in July this year to suppress a cartoon making fun of the heir to the throne, the Crown Prince. In **France** several news organisations have defied the courts by refusing to reveal their confidential sources of information about doping in the sport of cycling. **Slovakia** still uses media laws, little changed, that were devised by a totalitarian communist system. And in **Ireland** the editor and a reporter on The Irish Times are currently threatened with jail for refusing the orders of the courts and of a special Tribunal to disclose the source of published information related to an investigation into allegations of corruption surrounding the country's serving prime minister.

The European Court of Human Rights (ECHR) has made several recent rulings protecting media freedom and free expression. In July 2007 the Strasbourg court overturned the conviction of a **Greek** radio journalist previously fined for chairing a discussion programme on which another speaker made damaging remarks about other public figures. However the authorities in **Slovakia** have refused to accept their obligation to bow to a similar ruling by the ECHR. In that case the Strasbourg court overturned the conviction and fine imposed on a journalist who had insulted a senior church figure and accused him of collaborating with the communist secret police.

In **Turkey**, incidents of legal harassment and violence against journalists are sharply down compared to the situation in the 1990s. But the murder of the Armenian-language newspaper editor Hrant Dink last January outside his Istanbul office and the attempt to prosecute the Nobel Literature Prize-winner Orhan Pamuk highlight the twin dangers of nationalist violence against liberal-minded writers and of criminal prosecution through Turkey's archaic laws banning insults against Turkish identity or state institutions. In 2006 a total of 293 people faced legal action based on the country's illiberal laws on free expression. In some cases the army itself has brought prosecutions against journalists who investigated or criticised the military's involvement in politics. Turkey's criminal laws are out of line with its Council of Europe obligations and incompatible with press freedom.

Cyprus illustrates how the overwhelming influence of partisan politics and rival nationalisms make a free and independent media all but impossible. The two-part Report by a Greek Cypriot journalist, Kyriakos Pieredes, and his Turkish Cypriot counterpart and colleague, Hasan Kahvecioglu, finds a surprising amount of common ground. It recognizes serious limitations on free expression and media on both sides, although the Greek Cypriot government of the Republic of Cyprus alone is recognised by the rest of the world. Crucially, they agree that the role of the media of both communities has overall been harmful, not helpful, to the cause of political healing as a result of distorting influences on journalists and their work. The Turkish military still operates blacklists against journalists in northern Cyprus whom they regard as disloyal to Turkish interests. But the most significant example of a government stifling media

freedom was provided by the government and media of the legitimate government of the Republic of Cyprus. In 2004, the European Commissioner Günter Verheugen was refused air-time on any Greek Cypriot TV Channel to refute the arguments for rejecting the UN Plan for a Cyprus settlement made by the Cyprus President Tassos Papadopoulos. In that Cyprus referendum vote, effective control of the mass media was important, perhaps even decisive, to the outcome. The tight media control robbed the population of the right to hear the full facts and the opposing arguments before Cyprus acceded to the European Union a few days later with the island still divided. Some EU figures protested, but media freedom was sacrificed to political expediency.

Public broadcasting: The Reports on public TV and Radio across Europe reveal an alarming picture of failures of independence and of journalistic integrity. Party political influence has brought sharp accusations of political interference and distortion in old European Union member states like **Austria, Spain and Italy. Spain** has recently enacted a new law aimed at establishing the independence of public broadcasting. Our Report on **Italy** examines the “anomaly” of the limited ownership and blatant political influences on Italian television, which the OSCE has criticised as threatening the “quality of democracy” there. Changes have been made to the Gasparri Law in response to strong pressure from the European Union and others. But critics are not yet confident that the result will be real journalistic independence for employees of RAI.

In many of the new and aspiring members of the EU the legacy of the communist one-party control of media and government is heavy-handed party political influence over public broadcasting. In the Report on **Poland** Krzysztof Bobinski describes the arrival of “political officers” in public TV to enforce the partisan editorial slant of the Law and Justice Party-led government, which was ousted in last month’s elections. He casts doubt on the prospect for Polish journalism to escape from the corrupting influence of partisan reporting in the near future. In **Hungary** the oppressive influence of party politics in the management of public TV has led to a drastic decline in quality and viewing figures, throwing the whole future of public TV in doubt. In **Slovakia** the political parties stand accused of manipulating the choice of public TV managers for their own advantage. In **Croatia** the ruling parties are accused of the same trick in appointments to the management and editorial leadership of HINA, the national news agency that exerts a big influence on news coverage by the rest of Croatia’s media..

Media ownership and exploitation: **France** provides a Case Study of a wider trend, in our fluid economic times, for powerful business figures from unrelated big industries like defence to take over the ownership of leading newspapers and other media titles. They include *Le Figaro* and *Le Journal du dimanche*. French journalists warn of the danger of interference in editorial matters in favour of the government or commercial interests. Journalists already point to examples of censorship, including one of an article revealing that the then wife of Nicolas Sarkozy failed to vote at all on election day when he was elected President. Media organisations have called for new safeguards in the law and the French constitution.

The **Slovak** Country Report picks up a warning by the chairman of the European Federation of Journalists, Arne König, that extreme job insecurity and poor wages are damaging the quality of journalism in many parts. He says many freelances should rather be called “forced-lances” because they have little or no choice about their terms of employment. In the Report on **Belgium** Michel Theys finds that the proportion of freelances among the country’s journalists is a quarter of the total. The Report concludes that owners and publishers should be obliged to fulfil their proper responsibilities to provide decent working conditions.

The Survey demonstrates that the media is often at the heart of wider political debates and of landmark legal decisions. The Report on **Austria** focuses on efforts to enforce the country's laws against denial of the Holocaust. An Austrian court ruled in 2000 in favour of the right-wing politician Jörg Haider when he was accused in a magazine article of trivialising the Holocaust. The journalist responsible was fined; but last year the European Court of Human Rights reversed that ruling and decided that Austria's justice system was at fault for its original judgement.

The **Romania** Report links recent setbacks in the country's anti-corruption drive to a fierce battle taking place within the media for and against the reformist President, Traian Băsescu. A recent episode when the president lost his temper, insulting a woman journalist who questioned him while he was shopping in a supermarket with his wife, showed up the partisan agenda of some news coverage as well as the media's preference for scandal and sensation over matters of substance, including issues such as social discrimination and high-level corruption. A draft law has been prepared which would create new "press offences" in Romania, including secret filming in the course of corruption investigations, attracting sentences of up to seven years in prison for journalists who break the rules.

Media "wars" with those in political power: As the impact of the media, especially television, has grown, political leaders have not only grown more sophisticated, hiring "spin doctors" and trying to win the media over with blandishments or privileges. They have also grown more intolerant of criticism. The **Czech** prime minister, Mirek Topolánek, accused the media of bias against him and threatened to enact a new law to curb press freedom. In **Slovakia** prime minister Robert Fico branded the media as "the political opposition". And in **Britain** Tony Blair, who is widely seen as having charmed and cajoled the media into giving him favourable coverage for many years, criticised them as destructive "wild beasts" shortly before his departure from office in June 2007. The British media continue, however, to scrutinise all political parties with often brutal thoroughness.

The **UK** has a fast-growing and lucrative Internet market, and the UK Report explains why the media are suspicious of the decision by European Union governments to impose new rules on self-regulation of content to **Internet** sites which offer "TV-like video-on-demand services". The European Commission's original plans for heavier regulation have been set aside, but the new rules which are due to come into force in 2010 still go against advice from the industry and may lead to censorship.

The evidence from the AEJ Survey of 20 countries leads to these broad conclusions:-

- Media freedom and independence in Europe are not assured, and in some of the countries surveyed they are growing weaker. They must be won in law and in practice.
- The problems of direct political interference in media affairs and contents are more acute in the "new democracies" of Central and Eastern Europe; but Western European countries can no longer be confident that they offer a more secure model of media freedom. New political and economic pressures in many of the older EU states mean that media freedom and independence there, too, are insecure.
- Most of the Reports in the Survey describe a marked trend in the media towards sensationalism and reporting about celebrities and trivia, which have served to downgrade the reputation of journalists in the mind of the general public.

- Impartial and thorough reporting about alleged failings or abuses by those in authority depend on the media's confidence in their own independence, on a legal framework for openness and on a broad level of support for the media as representatives of the public interest.
- In Europe, popular concern for freedom of expression and media freedom is undeveloped compared with the support for other causes. National sections of the Association of European Journalists are actively involved in strengthening cross-border links between journalists in different regions of Europe. The Spanish Section organises a valuable annual forum for exchanges with journalists from Central and Eastern Europe. Representatives of the Turkish and Romanian Sections of the AEJ are actively working to raise journalistic standards and to represent journalists in their quest for independence and freedom.

* * * * *

I thank Peter Kramer, the AEJ General Secretary, warmly for his enthusiastic support for this AEJ Survey, which is the first of its kind. The AEJ's International President, Diego Carcedo, has never wavered in his support for the project. Celia Hampton generously used her computer skills to help produce the printed and Internet versions of the Survey. The Survey is the work of all its authors and a testament to the reality that freedom of speech and of the media are necessary pre-conditions of other basic freedoms.

William Horsley
London, November 2007

ARMENIA



By Liana Sayadyan

Overview

Every year since 2002 the international human rights organization Freedom House has placed Armenia in the category of countries where the media is not free. In its report for 2006 Freedom House said: “Although there is a good amount of media diversity and pluralism, some major broadcast media maintain a pro-government bias, and there is no independent public broadcaster. Most newspapers are privately owned but are dependent on support from business conglomerates or political interests.”

Reporters Without Borders, in its global survey on the situation in 2006, put Armenia in 101st place out of 168 countries in all. That represents a backward move since 2003-04, when the country was ranked in 90th place.

The problems with freedom of the press in Armenia stem from three main factors:-

1. Legal restrictions, violence and failures of the rule of law
2. Economic dependency
3. A low level of professionalism and professional ethics

Case Study 1) Legal restrictions, violence and failures of the rule of law

Armenia’s laws on libel and defamation (Articles 135 and 136 of the Criminal Code) create a difficult legal environment for journalists, and lead in practice to widespread self-censorship. During the past 16 years of national independence these laws have actually been applied only once, in 1999, when Nikol Pashinyan, the Editor-in-chief of *Oragir* newspaper was sentenced to one year’s imprisonment, and the sentence was not carried out thanks to international pressure. However the laws seriously inhibit the press from investigating government abuses, especially corruption. The current laws also plainly contradict the Declaration on Freedom of Political Debate in the Media, issued on 12 February 2004 by the Council of Europe, of which Armenia is a member.

The adoption of a new Law on TV and Radio Broadcasting in 2000 failed to provide a fair and transparent framework for regulating the activities of broadcasting companies. Instead it enabled the authorities to close down critical television stations by denying them licences to remain on air. The decision-making process was distorted by political interference.

The members of the National Committee for Television and Radio were appointed arbitrarily by the President of Armenia, Robert Kocharian, himself. And in 2002 the Committee refused to extend the licences of two independent TV stations, *AI+* and *Noyan Tapan*. Those stations were denied the legal right to appeal; their subsequent applications for broadcasting licences have been turned down; and a complaint brought by *AI+* has been upheld by the European Court of Human Rights in Strasbourg. But the Armenian government has refused to implement

the ruling. Meanwhile the country's president has gone ahead and signed an amendment to the Television and Radio Law which effectively allows him to keep his appointments to the National Committee in place. The amendment allows for eight Committee members, four appointed directly by the president and four more nominated by parliament. Since the governing party dominates parliament, the president is thus assured of keeping control in his own hands.

In 2006 the OSCE Representative on Freedom of the Media, Miklós Haraszti, during a visit to Armenia, criticized the way in which the licences have been allocated. Mr Haraszti noted that the composition of the Committee was unduly restricted, and full details about the ownership of companies bidding for licences were not made public as the law requires. In effect, this means that the principle "one licence per company" is often ignored, since the same enterprise can set up several broadcasting subsidiaries and so acquire several licences at the same time. One family in Armenia, the Sargsyans family, now controls three TV channels: *Armenia*, *ArmNews* and *TV5*.

Although the Armenian Constitution establishes formal guarantees of freedom of the press and freedom of speech, the government consistently limits media freedom in several ways. Armenian Public Television, which has strong influence over public opinion, is operated as a state enterprise; its supervisors are appointed by the President, and its output consistently reflects the views of the government. In November 2005, during a referendum campaign on the constitution, the main mass media, including Public Television, actively supported the government's campaign for a "Yes" vote, while the opposition was mostly deprived of opportunities to put its case in the media. The editorial policies of the nation's private electronic media do not differ much in practice from those of Public Television. The President, Prime Minister, Minister of Defense and a number of leading business oligarchs allied with the government are shielded from criticism. And in 2004 a new TV channel, *Erkir Media*, was set up on behalf of the governing Armenian Revolutionary party (Dashnaktutyun) to broadcast its message directly to viewers. The Executive Director of *Erkir Media*, Gegham Manukyan, is a member of parliament for Dashnaktutyun and a former member of the party's executive.

These tight restrictions on media freedom are accompanied by numerous cases of violence and threats of various kinds directed at journalists. Thirteen specific cases were recorded between 2006 and 2007, including the following:-

In September 2007 Hovhannes Galajyan, the Editor-in-chief of *Iravunk* newspaper, suffered significant injuries and was hospitalised after being attacked by unknown assailants who broke into the newspaper's offices and beat him using metal bars. Mr Galajyan had already been violently assaulted one year earlier, in front of his own house. He stated after the first attack that he believed it was related to coverage in his newspaper which impugned the reputation of the then Defence Minister (and now Prime Minister), Serge Sarkissyan.

Threatening e-mails were sent to Edik Baghdasaryan, the Editor-in-chief of the online newspaper *Hetq*, demanding the suppression of articles containing allegations concerning the country's leading oligarch, Gagik Tsarukyan, who is also a member of parliament.

The editorial offices of *The Fourth Estate* newspaper were set on fire by unknown arsonists.

The power supply to the printing presses of the regional *Syuniats Yerkir* newspaper was cut following publication of criticisms of a power supply company.

The car of Souren Baghdasaryan, Editor-in-chief of the newspaper *Football+* was twice set on fire.

David Jalavyan, a sports writer on the *Haykakan zhamanak* newspaper, was injured in a knife attack.

None of these cases of violence towards reporters has been clarified or led to convictions in court. The judicial authorities have shown reluctance in many cases to conduct active investigations, and in the few cases in which individuals have been found guilty of obstructing the work of journalists, only fines or other mild punishments have been meted out.

Case Study 2) Economic dependency

Armenia's TV channels, all of them in reality controlled from the office of the President, provide the society with systematically biased information, which exclude all expressions of dissent. The written press is also hampered in what it can write by its heavy dependence on major business or political sponsors who exercise tight control over many newspapers by controlling the flow of funds from advertising.

Armenia has about 70 newspapers in all, representing various different interests and strands of opinion, but none can truly be said to provide objective information independently to its readers. According to Freedom House, they all depend on "private sponsors, often representing political and economic interests, which affect their objectivity". The circulation of the printed newspapers is too small to have any significant impact on public opinion or to develop an independent financial base. Newspaper distribution is another factor limiting diversity. More than half of all Armenian newspapers are distributed by a single state-owned enterprise, Haymamul. In 2001 the government declared its intention to privatise Haymamul, but in fact it has sold off only franchises for news stands, allowing Haymamul to keep its effective monopoly on newspaper distribution. This monopoly has allowed the authorities to censor newspapers on some occasions even after they were published, by ensuring that they never physically reached their readers.

Case Study 3) A low level of professional ethics and professionalism

The state of professional ethics in journalism is poor. In general, media workers in both the print and broadcasting media lack any ethical code which can serve as a proper guide to professional standards. Professional conscience is all too often sacrificed to the partisan interests of financial sponsors or media owners. This has fostered a spirit of mutual antagonism and open insults among those in the media who represent rival political or business interests. That in turn is reflected in a low level of probity and integrity in public debate. As a consequence there is little solidarity or sense of community among journalists, and efforts to establish common standards of ethics, or to form a voluntary professional ethics council have been unsuccessful.

Conclusion and Future Action: In order to establish genuine media freedom Armenia needs better professional standards among journalists, measures to prevent politicians from gaining direct control of the media, and international help to assist Armenian journalists develop the strong institutions and practices required to make media freedom a reality.

AUSTRIA



By Otmar Lahodynsky

Overview

The general climate in Austria for media freedom has slightly improved. In the World Press Freedom Index 2006, published by Reporters Sans Frontières, Austria lies in 16th place together with Canada and Bolivia, which is much better than in past years. In 2003 Austria was ranked only 26th, mainly because of intrusions into media freedom under the then ruling coalition of the conservative People's Party ÖVP with the far right FPÖ, the Freedom Party.

Since January 11 2007 Austria has been governed by a grand coalition made up of the Social Democrats (SPÖ) and the People's Party (ÖVP). Before the national election a new CEO and directors of the still dominant Public Radio and TV Station ORF were nominated by its *Stiftungsrat* (Foundation Council) consisting of 35 representatives of different political parties. The ORF's system of governance is laid down in the *Rundfunk Gesetz* (broadcasting law) which came into effect on January 1 2002. Journalists have long complained of systematic political interference in editorial policy decisions under governments of all political colours. Under the most recent government (led by the ÖVP), those complaints grew in intensity. The concerns focused above all on the effect of politically-motivated guidelines that determined which items of news and which press conferences should feature in prime time news coverage and which should not.

Under the new government there has so far been a marked decrease in complaints of this kind. Some ORF journalists have declared openly that there is a less fearful environment now. Since the summer of 2006 an internal ORF commission has also monitored allegations of discrimination in personnel and career matters.

In the written press the domination of one magazine-group, News-Verlag, remains pronounced. The company is owned and controlled mainly by two German publishers, *Gruner + Jahr* and WAZ and by one Austrian bank. News-Verlag owns several important Austrian magazine titles, including the weeklies *profil* and *NEWS*. In 2006 the Fellner brothers, who were formerly among the important shareholders in News-Verlag, sold most of their shares and founded their own daily newspaper called *Österreich*.

The biggest Austrian tabloid *Kronen-Zeitung* (with about 2.8 million readers) has faced new competition from a new free-press daily called *Heute*. But Rubina Möhring, the head of the Austrian section of Reporters Sans Frontières, says that while the overall situation of media freedom in Austria has improved, the concentration of ownership in the print media is still a matter of significant concern.

Case Study: The media and Austria's laws against Holocaust denial

Since September 2006 the issue of media freedom has been raised in several high-profile cases related to the reporting of commentaries about Nazi crimes by public figures:-

On August 23 2007 a convicted Austrian neo-Nazi writer and propagandist who had escaped from custody, Gerd Honsik, was arrested in Spain through the use of the European arrest warrant. Honsik was originally sentenced in Austria in 1992 to one and a half years in jail for denying Nazi crimes in his own publications, including the magazine *Halt* and his 1988 book "Freispruch für Hitler" (Acquittal for Hitler). He fled to Spain, where for some years he continued to publish right-wing material exculpating Hitler for distribution in many countries.

During that time the Spanish authorities declined to extradite him because Spain did not itself have any laws banning extremist right-wing writings, including denials of the Holocaust. Even when, in 1996, Spain introduced its own law making Holocaust denial a crime, Gerd Honsik could not be extradited because the new Spanish law was introduced after his conviction. However, Spain's new legislation appears to have made Honsik more cautious in propagating his views. The Vienna public prosecutor's office was able to make use of a European arrest warrant to effect his arrest in Spain, because offences related to racism and xenophobia are included among those for which the European warrant may be used. On October 4 2007 Mr Honsik was finally extradited to Austria. He is expected to have to serve his previous 18 month prison sentence, and Austrian prosecutors are also preparing a new case against him over many other alleged acts of Holocaust denial and spreading Nazi propaganda.

It should be noted that the British historian David Irving was released prematurely from an Austrian prison in December 2006. Irving was convicted by an Austrian judge to a sentence of three years imprisonment in February 2006 after he denied the existence of gas chambers in Nazi concentration camps in public lectures in Austria in 1989. It was *profil* which reported on the lectures and published comments from an interview with him. Mr Irving announced after his release that he would sue the Austrian government and continue to give lectures about Hitler's regime in which he declared that he would reveal "the truth".

In another landmark case the Strasbourg-based European Court of Human Rights last year finally ruled on a case involving the author of this AEJ Report on Austria, who is a senior editor of the news magazine *profil* and also the president of the Austrian section of AEJ. The then FPÖ-leader Jörg Haider sued *profil* over an article in which the journalist criticised Haider for trivialising the reality of Nazi concentration camps by describing them as "punishment camps". In the Austrian courts Haider won against the magazine in two instances, with the result that in 2000 the magazine had to pay a fine to Mr. Haider. Later, *profil* appealed the case to the European Court in Strasbourg, which in 2006 ruled in its favour. The judges said that it was fair for the journalist to criticise Haider as he had done, and the Republic of Austria was found to have been at fault because its courts had unlawfully imposed a fine on the magazine.

Conclusion and Future Action: The media must remain free to report and comment on the behaviour of those who espouse extremist ideas or who seek to distort the established record about the Holocaust in the Nazi era. These recent episodes and court cases demonstrate the vital importance for democratic societies of maintaining vigilance in defence of free speech and media freedom.

BELGIUM



By Michel Theys

Overview

Is freedom of the press compatible with the growing precariousness of working conditions for journalists? That troubling question now faces journalists and the media in Belgium, and is the focus of the **Case Study** below.

Belgian journalists are fortunate in being able to practise their profession without threats to their personal security. Journalists here are not dying for what they have written or for the TV programmes they have broadcast; no Belgian journalist is languishing in jail because he gave offence to those in power.

So is all well? Not at all. Constant vigilance is required. In July 2003 the European Court of Human Rights found the Belgian government guilty of conducting illegal searches to identify the informants of journalists. In 2005 Belgium passed a law on the protection of information sources which was upheld at the time as an example to the whole world. However that did not prevent the Belgian authorities from bringing criminal charges against a journalist on a Flemish-speaking magazine, *Humo*, for refusing to disclose the name of his informants.

There are other signs of encroachments on media freedom in Belgium. The General Association of Professional Journalists of Belgium has sent a Memorandum to the Belgian authorities complaining that some police investigation methods – for example, identifying mobile phone connections to establish if a journalist was called from a particular phone – contradict the spirit or letter of the law. Belgian law clearly states that no investigation or search of premises may be carried out in pursuit of data related to the information sources of journalists. It appears likely that in the coming months the journalists who now benefit from the law on the protection of sources will be obliged to mobilise themselves to prevent the national intelligence and security services from bypassing that law in the name of the struggle against terrorism.

Case Study: Poor pay and conditions destroy independence

Journalists in Belgium would still count as privileged if it were not for a more insidious threat. The issue is that of preserving the conditions needed to maintain the quality and professional standards of journalism, at a time when “packaged” messages and information of all kinds are increasingly pervasive and influential in shaping the climate of public opinion. Significant investment is needed on the part of media owners and managers to transform this raw flow of communications into reliable information and articles through the work of journalists.

The problem can be simply stated: journalists cost money. While creative advertising executives and marketing managers are naturally judged by their ability to generate profits, journalists unavoidably cost money. The essential work of the conscientious journalist involves

digging deeper, scrutinising and checking bland statements and evasions, and cross-referencing the information gleaned from various sources. All these things take time, and time is money.

Jean-François Dumont, in his eye-opening “Black Book of the Freelance Journalists” published by the Association of Professional Journalists, delivered this grim analysis:-

Behind the prestigious façade of the big French-speaking Media of Belgium there is an intellectual proletariat developing, and the public at large is ignorant of the incredible working conditions they endure, and the effects they have on the quality of information. Earnings below the minimum [the minimum guaranteed income], non-existent pay scales or pay fixed ad hoc by editors, unbridled competition, delays or non-payment of fees, absolute submission to the employer’s requirements, texts ordered and never published...that is the fate shared by more and more freelance journalists, whether they be editors, radio and television freelancers, photographers or cameramen.

More by necessity than by choice, one quarter of Belgian professional journalists are now freelancers. They can be used and discarded at will. The journalists’ unions, the Belgian Association of Journalists (AGJPB) and the Association des Journalistes Professionnels (AJP), have published their own research, which found that a news report may sometimes be paid as little as 35€ gross, and a whole page as little as 70€. That pay scale spells misery. Such derisory pay rates mean that this large number of freelance journalists is obliged to grub for work wherever they can find it, usually in a rush, relying on a short article here and a news item there to get by. And below them exists yet another category, of young people doing internships or filling time after their studies, who compete for even less reward. Marc Chamut, President of the AJP, describes the situation like this:-

It is that army of unhappy freelancers, trainees and jobbing journalists, outside any pay structure or conventions, many of them make-believe “freelance journalists” who are usable and squeezable at will and without a safety net, which sets the tone for the profession. Not only to their work. To all the profession. Through the unforgiving law of demand and supply.

Conclusion and Future Action: In Belgium, the freedom of press thus lives under the very real threat of being reduced to an ever more precarious and uncertain condition. Such precarious conditions of work can hardly be called real freedom. Owners and publishers should be made to fulfil their responsibilities to provide decent working conditions. Trade unions, professional bodies and media watchdogs within Belgium and at European level should be aware of the danger that media freedom may fail as a result of economic pressures and social neglect.

CROATIA



By Zdenko Duka

Overview

The media in Croatia have developed greatly in terms of quality and diversity in recent years. Although the circulation of most individual newspapers has gone down, the number of newspapers is growing steadily, and with it the total number of readers. Croatian Radio and Television (HRT) have kept their dominant position. Two new commercial TV stations have not yet fulfilled their market potential.

Yet it is apparent that the Croatian media are going through a serious crisis regarding their professional and ethical standards. Sensationalist journalism has become commonplace, with reporters often abandoning any pretence of objectivity or truthfulness in their pursuit of headlines and big audiences.

Overt political influence still casts a shadow over the media scene, although it is much less pronounced than it was before the sweeping reforms of the year 2000, which took national TV and a handful of large newspapers out of the hands of a handful of powerful political figures. However, private media ownership is now highly concentrated instead in the hands of two very large companies which dominate the newspaper market: Europa Press Holding, which is 50% owned by the German WAZ (Westdeutsche Allgemeine Zeitung) group and the Austrian publisher Styria.

Media independence is also under severe attack from a number of big commercial companies which emerged in the early 1990s as vehicles to advance the fortunes of certain influential figures from the political world. These figures now enjoy a dominant position within the economy, and have begun to use it to promote their own interests in the media. They exercise a significant degree of control over certain newspapers through their ability to grant or withdraw the advertising contracts which many publications rely on for their financial survival. For example, the large insurance company Osiguranje broke off its long-term advertising contract with *Jutarnji list*, a daily newspaper, following critical articles which appeared about the company's activities.

In these circumstances it is extremely hard for journalists to seek to act as the "conscience" of the society, since they are often under pressure to set aside the public interest in favour of the narrow commercial interests of media owners. That leads naturally to job insecurity and the habit of self-censorship.

The situation in Croatia's local media, especially local radio stations, is especially troubling, since many of them are effectively run by local political interests. As a consequence these stations have failed to develop any real editorial independence and the journalists who work there are often pressured to conform to blatant political bias. Partisan reporting was especially evident in the blanket coverage of the illness of Iвица Račan, a Croatian opposition leader and former prime minister, who died in May after three months of treatment. One radio station and one website even announced his death three weeks before he died.

The Croatian media have obtained a new degree of freedom from direct governmental and political party influence, thanks to the fact that most print media are now in private hands, as are two nation-wide TV channels: RTL Television and Nova TV. However, the state still owns *Vjesnik*, a low circulation daily; it is responsible for appointments to Croatian Public Television (HRT); and it exercises effective control over HINA, the Croatian News Agency.

The problem of excessive party political influence on the media is especially serious in the case of the national news agency, HINA, which is examined here in more detail.

Case Study: HINA, Croatia's National News Agency

Last year the situation in HINA provoked expressions of concern from many quarters, including the Croatian Journalists' Association, the OSCE and European Federation of Journalists. The European Commission also identified the management of HINA as a political problem in its Report on Croatia on November 8 2006. That Report concluded that "the procedure of appointing HINA Managing Council members had many deficiencies". HINA is the sole national news agency and so exerts considerable influence on other Croatian media.

According to the law on HINA, the Government must propose to Parliament four members for the HINA Managing Council, and a fifth member should be chosen from among the journalist employees of HINA. All five nominees must then be confirmed by the Parliament. The Managing Council should in turn elect HINA's director and Editor in chief.

In 2006 the Government took a series of steps which ignored both the spirit and the letter of these formal procedures. In July its four nominations to HINA's Managing Council were accepted by parliament; but the figures nominated faced accusations of conflict of interest, and some were seen as unqualified for the job because they lacked relevant experience. Critics said they were chosen in preference to other candidates who were clearly more competent and respected. For example, instead of appointing the former president of the Constitutional Court, Jadranko Crnić, the Parliament decided on a man, Dražen Jović, who had completed Law School only two years earlier.

The government's non-transparent behaviour brought a storm of protest from all the opposition parties as well as the Croatian Journalists' Association, who alleged that little-known and incompetent persons had been appointed simply in order to allow the ruling party easily to control the actions of the HINA director and editor in chief. But the Government and ruling party politicians rejected all appeals against their decisions. The Government, citing what appeared to be flimsy technical arguments, refused to implement the rules laid down by law for the selection of a fifth Council member, and proceeded to let the four-member Managing Council act for several months as though it was properly constituted.

Of crucial importance was the decision of this four-member Council, despite all the questions about its legitimacy, to appoint a new HINA general manager, effective from January 1, 2007.

The newly-elected general manager was a woman, Smilja Škugor Hrnčević, who had been well known as a prominent editor in the Tuđman era, when the media was forced to work under strict government controls. It was public knowledge that the President of the Republic, Stjepan Mesić, opposed her appointment. And the very next day the Government announced it would

dismiss the HINA Council, citing the very arguments of its critics – that the Council was incomplete without its fifth member, the employees’ representative.

The end result was exactly what the opposition and the CJA had warned against: the Government had achieved its goal of having its preferred candidate as HINA general manager appointed, and it took steps to dissolve the improperly-constituted HINA Council after the event.

A new HINA Managing Council was appointed in February 2007, one month after the new general manager took up active duty. This time the Council also included the representative of HINA employees. But the new Council did not question the appointment of the general manager by the previous Council. All the politicking and confusion led to a long delay in the process of selecting an Editor in chief for HINA. The US State Department’s 2006 report on Human Rights in Croatia recorded that government officials “attempted to influence national television”. It also quoted a statement of protest by the Croatian Journalists Association, that freedom of the media “was jeopardised by the vague wording of the law on public media”.

The CJA has since continued to call urgently for new and transparent procedures for electing all the members of the HINA Managing Council to make it more public, democratic and transparent.

Conclusion and Future Action: The only way to safeguard media freedom in Croatia in the face of the political interventions described here is to remove the Government’s power to control any of them, including the national news agency HINA. Responsibility for internal regulation and editorial matters should be left to the media’s Managing Councils, which should be completely independent. The law needs to be revised to ensure that democratic standards are applied in their selection. The Government must not be allowed to make use of ambiguities in the law and conventions in this field for its own purposes.

CYPRUS

Part One by Kyriakos Pierides
Part Two by Hasan Kahvecioglu



In view of the political division of the island of Cyprus, this Report consists of two parts, written by a Greek Cypriot and a Turkish Cypriot journalist who have set an example to others by collaborating across the divide.

PART ONE by Kyriakos Pierides

Overview

I and Hasan Kahvecioglu have collaborated professionally for almost ten years. For the last two years we have jointly produced and broadcast a bilingual radio programme transmitted to both the Greek Cypriot and the Turkish Cypriot communities.

Media freedom is formally guaranteed by law in the Republic of Cyprus (among Greek Cypriots) and some of their newspapers make vigorous use of their right to criticise the government. But pro-government political and commercial pressures are a constant factor inhibiting the work of the media there. In northern Cyprus (the self-declared Turkish Republic of Northern Cyprus), too, there are formal assurances of press freedom, but the enduring influence of the Turkish army continues to inhibit media coverage of political and military issues.

In reality, media freedom on the island as a whole is severely constrained and weakened by its division. The Cyprus media have also in effect been divided since before the end of British colonial rule in the 1950s. They have been used relentlessly as a tool of political power. Indeed, both the Greek Cypriot and Turkish Cypriot media can be said to have played a negative role in this troubled period of history. They have contributed to the raising of tensions and the climate of mutual antagonism.

Two special factors affect the media environment in Cyprus, making it a unique case within Europe. One is the presence of some 30,000 Turkish troops in the northern part. The other is the huge political change represented by the accession of the Republic of Cyprus to the European Union in May 2004, without an overall political settlement being found to end the island's division. So EU laws remain suspended in the area inhabited by the Turkish Cypriots, which remains outside the administrative control of the Republic of Cyprus government. As long as there are no serious negotiations under UN auspices for a comprehensive settlement to reunify the island, the EU's hopes of acting as a catalyst for a solution remain barren.

The accession of Cyprus into the EU and the subsequent relaxation of restrictions on the crossings between the two parts of the island have brought benefits in terms of economic opportunities and cross-border movements. Yet the lack of any significant development in the political field has blocked the potential for any easing of the underlying tensions, including in the media field.

Many journalists on both sides have allowed themselves to become tools in a sterile and often heated propaganda war. Media workers generally belong to the elites on both sides, and identify themselves closely with their own side in the persistent confrontation between the two communities. In the absence of any structured political dialogue between the two communities, or any realistic prospect of an overall settlement, the media on the two sides have been unable to establish any institutional relationship between journalists' unions or other professional media bodies across the communal divide.

Thus, in the Greek Cypriot media, there is a constant focus on concerns regarding the presence of the Turkish troops in the northern part of the island, and on the importance of denying any form of international political recognition to the Turkish Cypriot authorities. In the Turkish Cypriot media, reporting is strongly coloured by the population's fear that the Greek Cypriot majority may succeed in incorporating them against their will into a Greek-Cypriot dominated state. Both these perspectives closely reflect the prevailing political stance of the political representatives of the rival communities.

The latest UN Security Council Resolution 1758, of June 15 2007, refers to the climate of mistrust and lack of constructive inter-communal dialogue. The Security Council expressed concern that "opportunities for constructive public debate about the future of the island, within and between the communities, are becoming fewer, and that this atmosphere is hampering, in particular, efforts to foster bi-communal activities intended to benefit all Cypriots, and to promote reconciliation and build trust in order to facilitate a comprehensive settlement."

The UN Secretary-General, Ban Ki-Moon, in his own Report to the UN Security Council this year, deplored the continuing mistrust between the two sides on Cyprus since the 2004 referendum, in which the Greek Cypriots voted by a large majority against a UN plan for a political settlement while the Turkish Cypriots voted, as the international community had urged them to, in favour of the plan.

The Secretary-General also called on the political leaders on both sides to end their mutual recriminations. This should also be seen as a challenge to the media, which represent the mouthpiece through which those recriminations are delivered. Until now journalists on both sides, with certain notable exceptions, have often served to exacerbate tensions through partisan and sometimes intemperate reports and commentaries.

The media are caught up directly in this fevered political climate, as one can see from the way in which newspapers that criticize the policy of the President come under fire from his political supporters, who present them as "serving enemy interests." One example is the recent attack by Archbishop Chrysostomos against the *Politis* newspaper, describing it as a "Greek-speaking Turkish newspaper". Likewise, two years ago President Papadopoulos himself accused the main opposition party. The Democratic rally, of presenting the Turkish viewpoint on the Cyprus issue, because of its support for the UN's "Annan plan" for a political settlement.

It should also be noted that during 2007 the President of Cyprus, Tassos Papadopoulos, personally intervened to force the dismissal of the press attaché at the Cyprus High Commission in London, Soteris Georgallis, over an issue related to free opinion and debate. Mr Papadopoulos made his displeasure known forcefully after the press attaché attended a book presentation at the London School of Economics which was addressed by a critic of the President, the writer Takis Hadjidemetriou. *The Cyprus Mail* commented that the episode had exposed the "autocratic style" of the President.

The media should play an important part in the détente which the UN is calling for. But the contents and tone of the media output on both sides shows that in reality the political deadlock is blocking any significant moves of that kind. Among the main obstacles are:-

Political pressures: journalists on both sides remain under strong pressure from their own employers to reflect the demands of the political leaders of their own community. The goal of the Greek Cypriot leaders is to pressure Turkey into unconditionally recognising the Republic of Cyprus as one of the 27 member states of the EU with which Turkey is negotiating her own future accession. For Turkish Cypriots the overriding goals are to end the international isolation of the northern part of the island and establish themselves as political equals of the Greek Cypriot authorities which are now the only internationally-recognised government on the island.

The language divide: Since the media of the two communities use different languages, Greek and Turkish, to do their work and transmit their articles or broadcasts, different versions of the same events can become established inside the two communities. Political pressures also mean that items of news about daily life in the two communities, or “human stories” that would naturally be of interest to people on both sides, rarely appear on TV, radio or in newspapers.

Despite all these difficulties many journalists from both communities have developed individual contacts and cooperation. Following a violent incident between youths from the two communities at the “English School” in Nicosia, where Greek and Turkish Cypriot pupils study together, the moderate press on both sides cooperated in a way which helped to defuse the tensions. Our bilingual radio programme, “Talk of the Island”, also worked towards this goal by talking on air with pupils from both side at the school. Many media outlets from both sides, especially the Greek Cypriot newspaper *Politis*, working with Turkish Cypriot journalists, have done much to inform people on both sides about missing persons from the bloody events of the past. But such episodes have generally been short-lived. Journalists have been unable to surmount the problems arising from the political deadlock.

Conclusion and Future Action: The European Union, in view of its pro-active role in encouraging Cyprus’ accession despite the political stalemate between the two communities, bears a special responsibility for improving the situation. That applies in particular to standards of media professionalism and other aspects of inter-communal understanding.

In parallel with the UN efforts, the European Union should be more active in seeking progress towards a long-term political settlement. EU norms and standards could provide common ground, and the media could act as an effective tool to break down barriers and build up inter-communal trust and institutions. Concrete examples could include:-

1. With the imminent entry of the Republic of Cyprus into the EU’s Economic and Monetary Union on January 1 2008, Euro-zone economic policies could be explained and eventually shared with the Turkish Cypriots.
2. Both communities could be asked to collaborate in favour of EU policies in areas such as Energy, Environment and the Lisbon Strategy for economic reform.
3. Ways should be found to apply the lessons learned from the historical experiences of other EU member states, and copy successful examples of inter-communal reconciliation and tolerance. The examples of the Northern Ireland peace process in the UK as well as Franco-German post-war reconciliation may have valuable lessons for Cyprus.

CYPRUS



PART TWO by Hasan Kahvecioglu

Overview

The “Cyprus problem” – the de facto political division of the island – is the determining factor for the work of the media on both sides, as in every area of life. Both Turkish Cypriot and Greek Cypriot journalists have become conditioned in effect to represent the political stance of their own administrations, or face exclusion or rejection as “traitors”.

In northern Cyprus those who dare to express non-mainstream views in the media have in the past faced fierce verbal attacks by nationalist forces associated with the Turkish army and some parts of the administration such as the Civil Defence Organisation and the Civil Affairs Ministry. In such a climate objectivity and openness is very hard to achieve. However the climate has grown considerably better since 2003, when a new government was elected which has cooperated with the Turkish Cypriot journalists association to ease the previous restrictions on freedom of access, movement and coverage.

These are the main practical obstacles to media freedom and independence within the Turkish Cypriot community:-

Ownership and editorial control of the media: Owners of media companies feel a strong need to align themselves with the government because of its pervasive economic control. The state is the biggest customer for advertising in the media, and the main source of their revenue. The state-owned news agency TAK (*Turk Ajansi Kibris*), dominates the media in northern Cyprus. It accounts for as much as 85 percent of the articles that appear in the written media, leading to systematic distortions in news coverage which reaches the population.

Northern Cyprus, with a population of about 260,000, has twelve daily newspapers, apparently offering a wide choice to readers. But most are controlled by businesses with close ties to the government. *Kibris*, which has the biggest circulation (13,000), is known to have close financial links with the government. Such close relations between government and the press mean that many issues are effectively “off limits” for probing by the media. The influential private TV station *Genc TV* receives direct government funding. Recently the station stopped the broadcast of the “Time to Talk” programme presented by the journalist Dogan Harman.

Those who control the editorial policies of the leading media have recently demonstrated a rigidly nationalist stance on what may and may not be publicised and debated. After the state-owned TV station *BRT* showed the film “Our Wall”, a bi-communal documentary which made the case for a united Cyprus, the director of *BRT* was criticised by army officials and forced to resign.

Turkish troops: Turkish Cypriots have shared their territory with Turkish troops since 1974. Recently the Turkish army has openly criticised some newspapers and TV stations, including *Genc TV*, *BRT* and *Kibris*, and has barred their journalists from access to military exercises and other activities. The army operates an effective blacklist of journalists and news media of which it disapproves, including journalists on *Afrika* daily and Radio May. Turkey is commonly described in the media as in daily life as the “motherland”, and Turkish troops are called “peace forces”. It is effectively taboo to question the use of these officially-sanctioned terms.

The police in northern Cyprus are an integral part of the army and local authorities have no control over their behaviour. A recent TV discussion programme produced by Kartal Harman on the role of the police (“Say the Truth” on a private TV station, *Canal T*) was blocked from going to air only minutes before its scheduled transmission.

Legal protection: Since the TRNC or Northern Cyprus is not internationally recognised there is no effective outside monitoring or control on the administration of justice or police power. Safeguards for the physical safety and legal protection of journalists are weak or non-existent.

Professional and labour standards: Because of the relatively small size of the Turkish Cypriot community, media organisations suffer from persistent financial difficulties. There are few opportunities for training and inadequate funds to promote new projects and increase circulation. Journalists generally suffer from the lack of job security. No trade union for private sector journalists has been able to set itself up. And plans for a law protecting the labour rights of journalists, which was passed by parliament in May, had still not been implemented by early autumn 2007.

Conclusion and Future Action: International organisations and sister media bodies from other parts of Europe and beyond could help to relieve the acute and deep-seated problems which now constrain media freedom in Cyprus. Two of the most urgent tasks are to relieve inter-communal tensions, especially the social and economic disadvantages suffered by the Turkish Cypriot community, and to promote cross-border media contacts, as well as professional media training along with other aspects of civil society-building.

CZECH REPUBLIC



By Tomas Vrba

Overview

The Czech media enjoy a comparatively high level of media freedom and independence, reflected in the relatively mature media scene and the lack of high-profile violations of the media's ability to report on events in public life. Reporters Sans Frontieres, in its Press Freedom Index for 2006, ranked the Czech Republic in 5th place out of 168 countries assessed. But the recent heated attack on the country's media by the Czech Prime Minister indicates that there are significant tensions. The Case Study, below, on possible political and commercial pressures examines a number of lapses in the Czech media's record and outstanding issues related to media freedom.

Many media have now adopted professional or ethical codes which are largely inspired by the BBC Guidelines of the British Broadcasting Corporation. The main journalists' organisation, the Czech Journalists Syndicate, has not been able to recruit the majority of the country's media workers as members. Nevertheless it offers free legal aid and its Ethics Panel gives relevant judgements on controversial cases.

The general "Press Law" (No. 46/2000, updated) guarantees journalists the right to reasonable protection of their sources. The Czech Television Act and the Czech Radio Act regulate the public service broadcasting media. There is no criminal law covering defamation, only a Civil Code procedure. There have been numerous cases of politicians attempting to sue journalists for libel, sometimes with apparent justification; but those attempts have had little success. A law making an offence of insulting public authorities was abolished years ago. Now a Freedom of Information Act allows Czech citizens to sue the authorities in case they refuse to release information on request

The Czech Republic, with a population of 10 million, has no state-owned or state-run media. Public TV and radio are financed from licence fees, and are also permitted to sell a limited amount of advertising. The Czech Communist party daily is the only example of a newspaper being owned by a political party.

There is a substantial variety of print media titles, including four national dailies – *Dnes*, *Hospodarske noviny*, *Lidove noviny*, and the ex-communist *Pravo* – as well as several popular tabloids, a sports newspaper, and the regional press. The most popular newspaper is a tabloid, *Blesk*, with a circulation of half a million and readership of 1.3 million. Three free newspapers have appeared in Prague. There are three important opinion weeklies (*Reflex*, *Respekt*, *Tyden*) and hundreds of other periodicals, including local publications and Czech versions of international magazines. The *Prague Post* is an English-language weekly and there are several business-oriented Russian language papers.

The Czech Republic has two national public service TV channels, *CT1* and *CT2*, and two nation-wide private stations *Nova* and *Prima*, as well as a number of regional TV stations. *Nova* has the highest TV audience ratings (about 40 per cent), while *CT1* gets over 20 percent.

A national switchover from analogue to digital broadcasting began in September 2007 and is due to be completed over five years. The public service radio network – Czech radio or *CRo* – competes with numerous private radio broadcasters. And Prague hosts *Radio Free Europe-Radio Liberty*, broadcasting in foreign languages mainly to the ex-Soviet Union countries and Asia.

The Czech News Agency *CTK* is a public institution and as such is eligible for state budget support, but it has avoided asking for it in order to protect its full independence.

Web news providers are enjoying increasing popularity, both in the form of electronic versions of printed papers and specially designed servers like *Aktualne.cz*. More than 40 per cent of Czechs have access to the Internet, 75 per cent of whom use the Internet as a source of news.

The ownership of the main media enterprises is mixed between local Czech enterprises and foreign ones, including Axel Springer, Hearst, Hachette, Readers Digest and Ringier. French interests are active in radio broadcasting, for example the channel *Europe 2*). A Bermuda-based enterprise *CME* (Central European Media Enterprises) has a big stake in the popular TV channel *Nova*. (Generally, owners do not tend to influence the contents; they seek profit.)

The Czech media represent a sizeable market for advertising, worth about 4 billion Czech crowns (140 million euros) per month during last year. Of that, TV advertising accounts for 50 percent, with *Nova* taking the largest share, while newspapers take about 40% of the total.

Early in 2006 the BBC stopped its radio broadcasts in Czech after 66 years. This development was greeted with dismay by both media experts and the public, because the BBC had long represented a rare example of professionalism and decency in journalism.

Case Study: Political and commercial pressures

The Czech media scene appears to be free of blatant interference in editorial matters from political or business quarters. No allegations of violence or intimidation against journalists have surfaced in recent years. However, businesses and political figures exert pressure in more or less subtle ways, and recently the Prime Minister, Mirek Topolánek, has publicly accused the media of bias against him and threatened to introduce a new law to curb press freedom. Czech journalists sometimes fail to demonstrate the independence of mind and professional rigour needed to report adequately on sensitive issues. The following examples illustrate the risk of bias and self-censorship:-

The media have failed to provide a candid and thorough examination of the implications of the government's decision to accept American plans for siting radar bases in the country for the future US missile defence system. Media coverage has generally been cautious in reporting the important technical and practical details such as technical specifications, focussing heavily instead on the opposing opinions of various political groups.

Czech journalists have shown a lack of independence and determination in questioning politicians and their decisions in other fields, too. The *Lidové noviny* daily has been accused of acting as a mouthpiece for the ideas and policies of the prime minister's political party, the ODS (Civic Democratic Party).

A reluctance to question authority is shown by the media's failure to investigate the extraordinary case of Yekta Uzunoglu, a Prague-based Turkish entrepreneur of Kurdish origin. He was arrested and jailed for more than two years, from 1994 to 1997, on what turned out to be police-fabricated evidence. The case raised serious doubts about the standards of justice in the Czech judiciary, and still many years later the facts of the case have remained shrouded in mystery.

In late 2006 it emerged that the telephones of several journalists, including Jan Hrbacek of Czech radio, had been tapped as part of a police investigation into the leaking of a secret report on contacts between organized crime gangs and government officials. The Czech Journalists Syndicate protested forcefully.

Throughout the past year Czech public TV has faced strong criticism for failing to produce hard-hitting and independent documentary programmes on current issues. On several occasions scheduled programmes have been postponed or cancelled, prompting accusations of self-censorship.

The danger of declining journalistic standards is increased by other features of political and social life which tend to encourage passivity and acceptance of the status quo instead of vigilance. The political debate is characterised by populism and an excessive focus on personality. National news, often sensationally presented, tends to squeeze out important international developments, including European news. Czech public TV also faces loud complaints that it has succumbed to the temptation of "dumbing-down" in a bid to boost audiences.

The media's persistent focus on the personal lives and affairs of the past Prime Minister, Jiri Paroubek, as well as the present incumbent Mirek Topolaneck, has contributed to a souring of media-government relations. Mr Paroubek, a Social Democrat, sought to blame the media for his defeat when he lost an election last year. In September 2007 Mirek Topolaneck launched a bitter attack on the media, accusing them of slander, bias and corruption. The Czech Journalists Syndicate responded by saying that neither of the country's leaders had ever produced concrete evidence to support their complaints, and that in a democratic country freedom of speech must not be "regulated". One commentator remarked that Czech politicians feel so immune to media exposure of their misdeeds and scandals that they do not even need to pressure or threaten journalist to get them to stay quiet.

Conclusion and Future Action: Undue political and commercial pressures must be firmly resisted and the laws must continue to protect media freedom from unwarranted intrusions. Also, Czech journalists have too often been found responsible for errors of fact and for failing to adequately follow up controversial political issues. The inescapable conclusion is that too many Czech journalists prefer to avoid confrontation rather than face the consequences of rigorous and thorough reporting. Taken together, this tendency also represents a potential danger to the freedom of press.

FRANCE



By Régis Verley

Overview

In France media freedom was called into question during the 2007 presidential election campaign. Leading organisations representing the media, such as *Reporters Sans Frontières* and France's National Federation of Journalists' Unions have demanded changes in the law to provide more protection for journalists.

A significant threat to the journalistic profession arises from the decision of the judicial authorities to serve notices on journalists to name their sources of information in several high-profile cases, such as the reporting of the discovery of banned substances in the possession of cycling teams. Until now journalists and editors have all refused to comply with the requests, on the grounds that to do so would mean they had acquiesced in performing the work of the judges.

A more general and widespread threat to media freedom arises from the economic fragility of many of the best-known titles of the national press. The financial problems experienced by these established newspapers have given the opportunity to leading commercial enterprises to acquire the ownership of newspapers. Several papers, including *Le Figaro*, have been bought by Serge Dassault, the head of a giant industrial group whose main activity is the production of military weapons and aircraft for the armed forces and which therefore depends heavily on large government contracts. Others have passed into the hands of other big business groups controlled by friends of the newly elected president, Nicolas Sarkozy. Journalists have publicly protested against cases of censorship in respect of an article in *Le Journal du dimanche* and another in *Matin Plus*, which are controlled respectively by Arnaud Lagardère and by Vincent Bolloré, both of whom are acknowledged to be close to Mr Sarkozy.

The organisation *Reporters Sans Frontières*, in its latest annual report on press freedom in France, identified several threats to the professional freedom of journalists. One arises from the actions of judges investigating high-profile scandals such as the "Clearstream" affair, in which leading politicians were alleged to have benefited from funds in a bank account in Luxembourg. The French judicial system has also clashed with the media over the reporting of evidence linking members of the cycling team Cofidis with the possession of banned drugs. In these and other cases, journalists published items of information from confidential sources without revealing how they acquired the information. The judges in charge of investigating those cases issued search warrants in an attempt to discover the identity of the sources, and seized the hard disks of journalists' computers.

The journalists and editors concerned presented a united front, denouncing the actions of the courts and the police. They defend the fundamental right of journalists under French law not to be obliged to reveal their confidential sources of information in reporting matters of public interest. France's national journalists' associations and trade unions have collectively called for a new law to be passed to guarantee that right. They also called on all journalists to stand firm in refusing to give away the names of their confidential sources in these controversial cases.

A further source of risk to the freedom of journalists is the recent Europe-wide law banning discrimination on the grounds of race, gender, religion or age. Professional media organisations acknowledge the need to protect every citizen from discrimination, but are concerned that journalists may face criminal prosecution or conviction on charges of handling information which could be deemed discriminatory. Likewise, the journalists' unions and professional bodies approve new laws on the protection of privacy, but they have called for extra guarantees to ensure that they do not place journalists at risk of breaking the law in the course of their normal professional work.

Case Study: Media ownership and influence put media freedom at risk

The overriding threat to media freedom in France, however, is associated with changes in media ownership resulting from the fact that many leading French newspapers have found themselves in serious financial difficulties. Both *Libération* and *Le Monde* have faced acute crises arising from their accumulated debts and lack of funds. As a consequence, *Libération* became the property of a member of the Rothschild family and was obliged to accept a financial plan involving severe cuts in journalists' posts and expenditure. *Le Monde* has come under new management and was obliged to sell many of its regional subsidiaries. *Le Figaro* was acquired by Serge Dassault, an important French industrialist and Member of Parliament for the party founded by former President Jacques Chirac. Journalists at *Le Figaro* have expressed concerns that its new owner may seek to interfere in the paper's editorial line in favour of the French government. Mr Dassault recently said that he could not understand why only journalists, and not shareholders, were allowed to write the articles that appear in newspapers.

The high-profile acquisition of media properties by leading French businessmen has greatly changed the national media landscape. Arnaud Lagardère, whose industrial group is also a leading supplier of electronics, aircraft and weapons to public sector enterprises, is known to be a close friend of President Sarkozy (once referring to Mr Sarkozy as "my brother"). Mr Lagardère owns interests in various other media organisations, including a radio station (*Europe 1*), a TV channel (*M6*), the magazine *Paris Match*, the newspapers *L'Express* and *Le Journal du dimanche*. Vincent Bolloré, who attracted much attention for inviting Mr Sarkozy to take a holiday on his boat soon after the election, owns the two free daily magazines *Matin Plus* and *Direct Soir* and a new TV channel *Direct 8*. He too relies on government or public sector contracts. And Martin Bouygues, the largest shareholder in *TF1*, France's most popular TV channel, has important business interests in constructing public buildings and roads. He is also acknowledged to be close to Mr Sarkozy.

There are special concerns over the prospect of the possible sale of France's most influential economics and business newspaper, *Les Echos*, to Mr Bernard Arnault, one of France's richest men and the owner of a variety of companies in the luxury goods and media sectors. The newspaper's senior editors have expressed concern about the risk of a conflict of interest when the owner of leading companies that are listed on the stock market controls the country's foremost business newspaper, whose role is to provide reliable and independent business information to the public.

These examples of personal ties between top French politicians and leading business figures raise serious doubts about the prospects of survival of free and independent media in France. Already two well-publicised examples of censorship have taken place concerning articles about

Cecilia Sarkozy, the president's wife. An article reporting that Mrs Sarkozy failed to support her husband by voting in the presidential election was censored by Arnaud Lagardère, whose Lagardère Group owns *Le Journal du dimanche*. Mr Lagardère also owns *Paris Match*, whose Editor in chief Alain Genestar was dismissed for publishing a photograph of Mrs Sarkozy in New York with the man who at the time was alleged to be her lover. In another case the planned publication of an article in *Matin Plus*, owned by Vincent Bolloré, about the alleged mistreatment by police of a group of Hungarian musicians at Charles de Gaulle airport was also suppressed. Journalists have reason to fear that more such cases are liable to occur in future.

On 5 June this year *Le Monde* published an appeal by leaders of France's three main journalist unions – the National Union of Journalists/ Syndicat National des Journalistes, the Syndicat National des Journalistes-CGT, and the French Democratic Confederation of Labour or USJ-CFDT. They protested against signs of improper collusion between leading politicians and the owners of the country's mainstream media to alter the climate of public opinion, and called for additional guarantees of media independence to be provided for in new legislation and to be written into the French constitution.

Conclusion and Future Action: Faced with these numerous challenges to their professional independence, French journalists wish to see new legislation above all in two areas: first, to protect journalists from wrongful prosecution, and secondly to prevent business groups with close links to the government from taking a controlling interest in newspapers or other mass media enterprises.

GERMANY



By Horst Keller

Overview

The German media enjoy the protection of the 1949 constitution, the Basic Law, for their guarantee of freedom in their work and for the right not to have to disclose their sources. Those guarantees were confirmed several times in the past, most recently in a landmark ruling by the Constitutional Court early in 2007. However, the decision by German prosecutors in August this year to launch criminal investigations against seventeen named journalists from leading national print media, including *Der Spiegel*, *Die Welt* and *Die Zeit*, over the publication of classified material given to a parliamentary committee on intelligence matters, has drawn sharp condemnation from representative German media organisations as well as the OSCE's Representative on Freedom of the Media. The case relates to alleged German government complicity in CIA "rendition flights" and is examined below. It has cast serious doubt on Germany's record for media freedom. Reporters Sans Frontieres, in its latest global media freedom survey, ranked Germany in only 23rd place, reflecting the damage done to the country's reputation in this regard.

Case Study: Journalists faced criminal investigation over "rendition cases"

From the early days of the Federal Republic of Germany the issue of the media's freedom to publish sensitive material related to intelligence and security matters has been a defining one. The first major confrontation between the press and the government in the postwar period was the *Spiegel* affair of 1962. The late Rudolf Augstein, the publisher of the highly influential weekly magazine *Der Spiegel*, was arrested on suspicion of revealing state secrets after printing a highly critical report into the alleged lack of readiness of the West German armed forces, the Bundeswehr, in the face of the military threat from Warsaw Pact forces. Following long and heated legal and political arguments and the resignation of the Defence Minister Franz-Josef Strauss, Rudolf Augstein was vindicated. The Constitutional Court ruled that the state could not restrict the freedom of the press to report matters of public interest, even when publication might involve the disclosure of state secrets. Nobody was made to stand trial.

Yet in the intervening years frequent attempts have been made by the police and prosecutors to restrict the work of the media and even to bring criminal charges against journalists. According to the Association of German Journalists (Deutscher Journalisten Verband or DJV), the leading national journalists' union and professional body, those pressures have increased sharply in recent years. In the years between 1997 and 2000 alone, the German police are estimated to have carried out about 150 raids on journalists' offices.

The Constitutional Court again ruled decisively in favour of press freedom in a new landmark case in February 2007. It ruled that the authorities had violated press freedoms and acted unlawfully by raiding the offices of *Cicero* magazine in Potsdam in 2005. Prosecutors had ordered the raid after the monthly magazine cited classified information from the Federal Police Agency (Bundeskriminalamt) in an article about Abu Musab al-Zarqawi, the leader of

al-Qaida in Iraq who was killed the following year. The home of the article's author Bruno Schirra was also searched, and materials including computer data were seized in both raids. The Constitutional Court's ruling said that searches and seizures of material directed at journalists aimed at discovering their information sources were unconstitutional. This was hailed as an important victory by journalists who had warned that the *Cicero* investigation could disrupt the media's proper work and lead to self-censorship.

However in August this year prosecutors in Munich, Frankfurt, Hamburg and Berlin opened criminal investigations against seventeen journalists as well as several members of parliament over the alleged leaking of classified papers. The case arose from a parliamentary committee's inquiry into alleged government complicity in secret CIA "rendition flights" which reportedly transported terrorist suspects using German airfields, as well as into German intelligence service activities in Iraq at the time of the US-led invasion in 2003.

The investigation targeted journalists from many of Germany's leading print media, including *Der Spiegel*, *Die Welt*, *Die Zeit*, *Sueddeutsche Zeitung* and *Stern*. The documents revealed in the newspapers gave details of the claims of kidnapping and maltreatment made by two men. One was Murat Kurnaz, a Turkish national born in Germany who was detained by the Americans in Pakistan in 2001 and held at Guantanamo Bay until 2006. The other, Khalid el-Masri, a German of Lebanese descent, was reportedly captured in Macedonia in 2003 and taken by CIA agents to Afghanistan, where he claims to have been abused before being taken on to Albania where he was freed in 2004.

The prosecutors took up the case after the chairman of the Intelligence Committee, Siegfried Kauder, appeared on the first German TV Channel, ARD, commenting that the press was reporting more details of the classified documents in newspapers than even members of his committee knew about. But later Mr Kauder acknowledged that it is the proper role of journalists to find out and disclose details of alleged dishonesty on the part of public officials. He and other members of his committee added their voices to calls for a halt to the criminal investigation against the journalists as well as against the parliamentarians. The attempt to prosecute journalists was sharply criticised by the OSCE's Media Freedom Representative, Miklós Haraszti, who called on the German authorities "to ensure that media professionals can continue informing the public of important matters without intimidation." And the New York-based Committee to Protect Journalists protested at the targeting of journalists whose duty, it said, was to publish matters of public interest.

The prosecutors' efforts appeared to have come to nothing when only a few days later the Prosecutors Offices in Frankfurt and Munich announced they were closing their investigations because they had concluded there were no possible grounds for a criminal prosecution. The other prosecutors soon followed suit. In effect the prosecutors had been forced into a humiliating climbdown. An episode which at first was seen as a malign attempt to deter the media from investigating duplicity or deception by the government later evaporated in confusion and even farce.

Conclusion and Future Action: These recent attempts to circumscribe or interfere with the work of journalists who investigate and report on important political matters represent a warning which must be taken seriously. Germany sets out to be a model for press freedom, but the ability of the press to carry out its work without fear of prosecution needs to be constantly defended and re-affirmed.

GREECE



By Athanase Papandropoulos

Overview

In Greece the future of the media at the start of the new millennium looks bleak. Opinion surveys show that journalists are less trusted and less respected than they used to be. A number of new and influential media-owners are deflecting journalism from its proper mission to inform citizens without fear or favour. The press has shown in the past that it has the power to motivate people to clean up the environment, and to force crooked politicians out of office. But today that power is too often used to promote reporting about sex, violence and sensationalism. Generally speaking, the Greek media can be described as free. Yet the authorities often resort to the law to discourage critical coverage of sensitive subjects including religious matters, relations with Turkey, and nepotism and other forms of corruption.

A new threat to diversity of opinion in Greece has appeared in the form of a media law passed by the parliament on July 5 this year. The law on “Concentration and Licensing of Media Enterprises and other Provisions” sets out a variety of new conditions regarding language, employment rules and finances that will make it harder for local and regional media organisations to obtain licenses for news and music radio stations. The regional affiliate of the International Press Institute, SEEMO (the South East Europe Media Organisation) objected that the law appears “deliberately designed to actively hinder the regional media’s economic development and exclude minority groups from access to information.” SEEMO accused the Greek government of seeking directly to influence the media market through the manipulation of news.

Despite Greece’s public commitment to European solidarity, the Macedonian question remains a taboo for journalists. Greek administration officials show no hesitation in systematically invoking the press laws and in suing newspapers, magazines and individual journalists when they are displeased. Although the courts no longer hand down prison terms for offences related to the media, the law still provides for up to 5 years imprisonment for “insult” or “defamation”. These are some of the notable cases from early 2006 to the present, as recorded by the International Press Institute and others:-

Case studies: Journalists face violence and prosecution for their work

On January 24 2006 the Journalists’ Union of Athens Daily Newspapers (ESHEA) spoke out against a threat to free expression. It issued a statement in a support of Professor Takis Alexiou, who had been sentenced to a 25-month prison sentence for defamation in July 2005 by a court in Rhodes in spite of the prosecutor’s own request for an acquittal. The case against Alexiou concerned an alleged defamation offence in the summer of 2003. The decision of the Court was based on a complaint by the Synodical Commission of the Greek Orthodox Church, which considers the Greek Rumi Committees, founded by Alexiou, to be a “sect” which threatens to corrupt religious beliefs. The Journalists’ Union insisted that the free expression

of ideas and beliefs is guaranteed by the Constitution and cannot be taken to represent a threat. On March 14 Alexiou was released on appeal.

On February 6 2006 a court of first instance in Patras convicted news editor Constantinos Flamis and cameraman Thanassis Kafetzis of *Super B* TV in Patras, to eight months in prison and a fine. In November 2004 the journalists had conducted an interview in the Patras Court House with an Albanian who was being arraigned for allegedly drunk driving in a stolen car. During his arrest, in November 2004, he claimed to have been physically attacked and in the TV interview he showed his injuries. The journalists' sentence was suspended for the duration of an appeal. The conviction of the journalists was based on an article of the Law which prohibits photographing and filming individuals against their will.

On February 7 a journalist, Makis Nodaros, appeared in court in Amaliada on a charge of aggravated defamation. The indictment was based on a September 2004 article in the newspaper *Proti*, in which the journalist wrote about the alleged sexual exploitation of a young girl, resulting in the birth of a child. The article did not mention the name of any person as a suspect. As a result, the prosecutor ordered the journalist to be charged with defamation. This offence is punishable with between three months and five years in prison, plus a deprivation of civil rights. The trial has been delayed because the defendant's lawyer was unable to attend the hearings.

Chief prosecutor Dimitris Papangelopoulos has requested journalist Aristeia Bougatsou, who works for the *Kathimerini* daily and *Skai* radio, to justify her allegations that state agencies had bugged journalists' telephone conversations. She delivered her evidence to the Hellenic Authority for Information and Communication Security and Privacy (ADAE) which must study the case and rule whether it should be investigated. The Public Order minister, Byron Polidoras, invited ADAE to inspect the operational bodies of the Greek Intelligence Service. The Journalists' Union ESHEA has demanded that the allegations of phone-tapping should be fully investigated. The list of those allegedly targeted includes the names of 24 journalists working for seven television networks and newspapers. In her letter, Bougatsou claimed that the intercepts started after the end of the 2004 Olympic Games, and she named elements in the Greek Intelligence Service which she said were responsible.

On October 9th, ESHEA protested against a lawsuit brought by the Greek Coast Guard (GCG – Limeniko Soma) against the journalist Stratis Balaskas, the editor of the *Eleftherotypia* daily in Athens and Editor-in-chief of the *Embros* daily on the island of Lesbos. Balaskas had published articles alleging the use of violence by uniformed GCG employees against a number of civilians, mostly immigrants. According to the existing Greek Civil Code concerning libel, if found guilty he would be liable to pay a heavy fine. Also in October, a blogger Antonis Tsiropoulos was arrested following a complaint of slander related to material on his blogsite (www.blogme.gr).

On November 16 2006, Lia Hristana and her TV crew from state TV, *Channel ET3* in Thessaloniki, were attacked with Molotov cocktails by a group of persons wearing hoods and masks who were participating in a demonstration to commemorate the student uprising against the Greek dictatorship in 1973. Hristana and the TV crew barely managed to escape from their car before it was set on fire. The assault led to another journalist, Philippos Syrigos, being hospitalised for ten days. The Thessaloniki Union of Daily Newspapers Journalists (ESHMETH) condemned both incidents.

ESHEA and ESHEMTH also made formal complaints against the owners of several media organisations for unfair dismissal of a number of journalists, infringements of their employment terms or non-payment of salaries. Several complaints have been lodged with the South East Media Organization (SEEMO) about the persistence of homophobia in some parts of the Greek media, allegedly fostered in some cases by figures in the military and the church and by certain politicians. Representatives of some non-Orthodox religious groups also claim that elements of the media have used hate speech to describe non-Orthodox Christians. Claims are frequently made that the media promote the views and interests of the Orthodox Church while ignoring the activities of other religious groups.

In July 2007 an important victory for media freedom was won when the European Court of Human Rights challenged the application of the Greek law on libel and defamation, which has sometimes been used to hold broadcasting journalists responsible for statements made by others on air. The court overturned a fine imposed by a Greek court on the presenter of a radio programme aired in 1999 on public radio ERT. He had been convicted for presenting the programme in which one of the speakers made controversial criticisms of public figures.

Conclusion and Future Action: Freedom House in its 2006 Report on press freedom in Greece concluded that there are some limits on speech that incite “fear, violence or disharmony among the population”. It found that journalists face an unsafe working environment because many had been the targets of violent attacks in recent years. The Greek Section of the AEJ seeks to play its part in countering attempts to restrict media freedoms by organising events and actions in favour of free speech and independent journalism.

HUNGARY



By József Martin

There can be no higher law in journalism than to tell the truth and to shame the devil — Walter Lippmann

Overview

Thomas Jefferson, one of America's founding fathers, said at the end of 18th century that if he had to choose between a government without newspapers and newspapers without government, he would not hesitate to choose the latter. Many politicians might disagree with Jefferson's statement, because the history of the last two centuries is largely the history of clashes between political power and the press.

From this viewpoint Hungary is not a special case. Press freedom was one of the fundamental demands during Hungary's battle against the Habsburgs' reign in the middle of the nineteenth century. During each of the eight changes of Hungary's political system in the course of the 20th century the conditions in and around the press were always a matter of sharp dispute. The last – and for us the most important – change of system, the transition from communist rule to democracy, was also marked by a fundamental change in the role of the press. The servant of the communist party under a dictatorship became one of the most active players in the political scene when communism was overthrown in 1989-90. According to some media researchers this was the short golden age of the media in Hungary: the old ruler was already too weak to control the media, and the new rulers and controllers had not yet arrived.

But that period didn't last long, and journalists and other media employees had to adapt to a new system. Péter Esterházy, one of the most distinguished Hungarian writers, has remarked that in the past the press was mostly influenced by political power, and now it is mostly influenced by money. Many barriers have come down, but he says even in the new environment of press freedom we have not only to write but also to sell our newspapers. Esterházy was of course right, and as in Europe's other new democracies it quickly became evident that freedom had removed old problems and replaced them with new ones. Still, according to expert analysts including the prestigious Freedom House the Hungarian press is free and there are, at least in theory, no taboos.

Case studies: five weaknesses of Hungary's free media era

1. The judicial framework for news reporting and investigative journalism is weak. The criminal code holds journalists responsible not only for their own words but for publicising libellous statements made by others. In other words politicians enjoy a certain immunity, while journalists quoting them do not. So can a journalist be jailed if he or she commits the offence of libel in this way? There was just one such case during the past 17 years when a journalist was found guilty of libel. The case involved an editor who in 2001 cited a document from some 45 years earlier, in the communist era, to accuse a serving member of parliament of having given testimony that played a role in the execution of four people after the failed 1956

Hungarian Revolution. The journalist in question was given a 10-month suspended jail sentence, but later the high court annulled the sentence. The libel case was brought by the MP who had himself been imprisoned by Hungary's communist regime after the events of 1956 and was only released in 1963.

Hungary's criminal law on **state secrets** also acts as a constraint on media freedom because journalists can be held responsible if they publish secrets received from state or government employees. Journalists from two newspapers, *Népszava* and *Heti Világgazdaság* were accused of breaching state secrets and taken to court, where long-drawn-out legal battles have been fought.

2. While the media landscape of Hungary is characterised by pluralism and a variety of opinions, it also reflects the **deep divisions within the political class** – not only in the opinion pages and leading articles but in news coverage as well. There are exceptions, but as a rule journalism in Hungary is deeply influenced and sometimes determined by party politics.

3. The future of **public radio and television** is uncertain. An intense debate is under way in Hungary, as elsewhere in Eastern and Western Europe, about how Public TV and Radio can be organised so that it survive competition from the commercial channels. In Hungary the percentage of people who regularly watch public television is no more than 15 %, which is far lower than the equivalent figures for the BBC, ARD, ZDF or *France 2*. Critics complain that Public TV costs too much to the taxpayer. Another problem which Hungary shares with some public broadcasting systems in Western Europe is its dependence on party politics. A cardinal error appears to have been made when the 1996 Media Law set up the National Television and Radio Board (ORTT), a regulatory and supervisory body whose members are mostly appointed by political parties. The Media Law is regarded by many professionals as outdated, and calls have been made for it to be reformed or replaced by a more independent and accountable structure for regulating public broadcasting.

4. Entertainment has largely engulfed the media at the expense of serious information and analysis. Hungary has more than 200 radio stations of various kinds – local and regional, public or non-profit and commercial, and cable, and a large proportion of them restrict their programming to entertainment without significant news content of any kind. The print media and television likewise appear to be largely in thrall to entertainment. Hungary has not only adopted the well-known phenomenon of **infotainment**; journalists often make what may be called **info-mercials**. In both cases, the boundaries between factual information and commercialism or entertainment are blurred, and in both cases the quality of journalism is damaged. One factor behind these trends is the steady fall in the circulation of the quality print media, both dailies and weeklies, during the last decade, while tabloid papers have either maintained or increased their relatively large circulations.

5. Among the younger generation, the **Internet** is extremely popular – in many cases to the virtual exclusion of all other media. In the overall adult population, however, the percentage of Internet users has barely reached 30%. The Hungarian Association of Content Providers has drawn up a voluntary code of conduct to regulate the norms of Internet content, and a new Law on the Media is being proposed which would regulate the Internet in order to provide a legal framework for the protection of personal rights and civil liberties. Left-wing and liberal political forces are combining to seek to strengthen the laws against extremist right-wing and neo-Nazi content.

Conclusion and Future Action: The health of Hungary’s media, like those of its European neighbours, needs a balance between market forces and a reasonable framework of state laws. More needs to be done to create the environment for free, high quality and financially secure media which are not dependent on allegiance to the politics of any party. Walter Cronkite pointed the way when he said simply “We are faithful to our profession in telling the truth. That’s the only faith to which journalists need adhere.” It is the responsibility of journalists themselves and of the whole political class to enable Walter Cronkite’s “simple” advice to be followed.

IRELAND



By Joe Carroll

Overview

The past year saw a very significant development in the area of the freedom of media in Ireland: the setting up of an independent Press Council, a Press Ombudsman and a Code of Practice for newspapers, magazines and journalists. This has taken place after years of debate on the sensitive issue of how to subject the written press to a statutory complaints procedure which would not unduly limit its freedom.

The industry and the National Union of Journalists had argued that the existing defamation law was already a substantial curb on the freedom of the press in Ireland without adding to it through a Government-appointed press council which could leave erring newspapers open to further sanctions in the courts. After a lengthy consultation process between a Press Industry Steering Committee and the then Minister for Justice and Law Reform, Michael McDowell, a compromise was reached.

The Press Council will be a genuinely independent body without Government appointees or interference. Through a Press Ombudsman, the public can make complaints about press reporting and if upheld, the offending organ will have to correct the report and offer an apology. An appeal can be made to the Press Council against the finding of the Ombudsman.

As a *quid pro quo* for the industry accepting this control, the Government agreed to reform the defamation law which discourages voluntary corrections and apologies as they left the way open for complainants to go on to sue for substantial damages. The new Defamation Bill was generally approved by the media but not so the accompanying Privacy Bill which was seen as a potentially drastic curb on reporting practices. The Minister introduced the Defamation Bill to the Seanad or Upper House in December 2006 and hoped to have it pass both Houses of Parliament before the general election this year.

But progress was slow in the Seanad where there was stiff opposition from some senators. The Bill lapsed when the election was called in May of this year. The new Government – the same coalition of Fianna Fail and the Progressive Democrats with the addition of the Greens – has said it will re-introduce the Defamation Bill after further consultation. But it has also said it will go ahead with the Privacy Bill. The setting up of the Press Council under a former President of Dublin University (Trinity College), Mr Tom Mitchell, has gone ahead. The new Ombudsman is Mr John Horgan, a former journalist, parliamentarian and professor of journalism.

The Freedom of Information Ombudsman, Emily O'Reilly, has been critical of the 2003 Amendment to the Freedom of Information Act of 1997, describing the effects of the changes as “negative”. She said that the message sent by the Amendment was that FOI rights were being curtailed; that the increase in fees made the exercise of those rights more difficult; and that the Government was now “less enthusiastic” about FOI. She pointed out that requests by journalists under FOI had fallen sharply since the introduction of fees.

Case Study: Irish journalists risk imprisonment for keeping silent about their sources in a corruption probe

Earlier this year the special Mahon Tribunal of inquiry attempted to force the editor and a reporter of *The Irish Times* to reveal the source of a tribunal document which disclosed that the Taoiseach or Prime Minister, Bertie Ahern, received secret donations from friends when he was in financial difficulties in 1993. This was an embarrassing disclosure for Mr Ahern because at that time he was Minister for Finance, the second most powerful position in the Irish Cabinet.

The Mahon Tribunal was set up by the lower house of parliament, the Dail, in 1997. It has since been investigating evidence of corruption in the re-zoning and development of land around Dublin in the 1980s and 1990s. The tribunal has found evidence of bribery and corruption by certain developers, councillors, lobbyists and a small number of members of parliament. An allegation that Mr Ahern was the object of bribes by developers of a shopping centre led the tribunal to investigate his bank accounts during that period. Mr Ahern strongly denies the allegation.

On ^t September 21 2006, *The Irish Times* published a report by its Public Affairs Correspondent, Colm Keena, that the tribunal had written to a businessman, Mr David McKenna, about payments which he and some other individuals had made to Mr Ahern totalling between 50,000 and 100,000 Euros around December 1993. It was clear from the report that Mr Keena had seen this letter which was marked “Strictly Private and Confidential” and had been sent as part of the private phase of the tribunal’s operation. Its public hearings are based on lengthy periods of private investigations.

Judge Alan Mahon, who heads the tribunal, immediately wrote to the Editor of *The Irish Times*, Geraldine Kennedy, summoning her and Mr Keena before the tribunal and demanding the newspaper’s copy of the letter and/or the identity of the source who provided it. Ms Kennedy and Mr Keena refused to aid the tribunal in this matter and she also said that she had ordered Mr Keena to destroy his copy of the letter after he had verified its authenticity.

Judge Mahon then brought the case to the High Court asking it to order Ms Kennedy and Mr Keena to identify the source of their information. As the document itself had been destroyed in spite of the tribunal’s demand for it, Judge Mahon also asked the High Court to make the journalists describe the document as an aid in identifying the source.

This High Court action was heard last July several months after the tribunal had itself disclosed that it would be questioning Mr Ahern about the payments but before he actually testified. He has since testified and confirmed receiving payments from friends and businessmen to help him through a difficult period after his marriage had broken down. The journalists told the High Court that although they faced possible imprisonment or heavy fines for contempt of court, they could not reveal their source or describe the document as that could lead to identifying the source.

Ms Kennedy said in an affidavit that it had been her duty to publish “a vital issue of public interest.” It would have a “devastating effect” on her standing as a journalist and editor if she identified the sources. The newspaper’s lawyer, Eoin McGonigal SC, said that if the source was identified by the journalists, their reputation and standing as journalists would be diminished and the flow of information on which they relied for their work would be

completely and utterly undermined. And *The Irish Times* would be “dead as a newspaper” so far as obtaining information was concerned.

The lawyer for the Mahon Tribunal, Denis McDonald SC, argued that freedom of expression guaranteed by the Irish Constitution and the European Convention on Human Rights was “not absolute”. Other rights came into play including the right of the tribunal to conduct a private investigation. The tribunal was also entitled to its own reputation. It had been accused at various times of “leaking” confidential information so it had to defend itself against such charges if the public was to have confidence in it. Hence it was important for the tribunal to show that it was not responsible for leaking the document in question to the newspaper.

The High Court judgement of October 23 2007 lays down that the tribunal is entitled to ask the two journalists questions about the source who leaked the now destroyed document so that it can show that the tribunal itself is not the source. “We conclude,” the three judges said, “that the defendants’ privilege against disclosure of sources is overwhelmingly outweighed by the pressing social need to preserve public confidence in the tribunal.”

What this means is that the tribunal can now resume questioning the two journalists both about the document and the source. If they continue to refuse to answer the questions, they can be cited for contempt and their action referred to the High Court for suitable punishment. This could be imprisonment or fines or both.

At the time of writing *The Irish Times* is considering an appeal against this ruling to the Supreme Court.

Conclusion and Future Action: The High Court judgement of 36 pages is extremely critical of the decision by *The Irish Times* to defy the tribunal by destroying the leaked letter, an action denounced as “anathema to the rule of law and an affront to democratic order.” But the judgement also throws light on how the Irish courts have sought to balance the non-disclosure of journalistic sources – a right which they acknowledge – against the “restrictions” on this right as set out in Article 10.2 of the European Convention on Human Rights. The High Court actually lists 11 cases where the European Court in Strasbourg upheld the right of various publications to publish information which the national courts had denied. It cannot be excluded that *The Irish Times* case could eventually join the list.

ITALY



By Carmelo Occhino and Elzbieta Cywiak

Overview

In 2005 the Organisation for Security and Cooperation in Europe (OSCE), through Miklós Haraszti, its Representative on Media Freedom, issued a report on Italy. It confirmed the overall health of freedom of expression and of the press in a lively and diversified media scene but contained words of censure on the “Italian television anomaly” and on the laws proposed to counter it – the Gasparri Law and the Frattini Law, which take their names from the ministers in the centre-right government of the time who proposed them. Therefore we will examine the special problems of ownership and political influence in Italy’s television sector, and the reforms being proposed, in more detail.

Case Study: Italy’s television anomaly – ownership, influence and a challenge to journalistic standards

The Gasparri law of May 2004 was enacted in response to complaints about the high concentration of ownership in Italy’s television market by the two main actors. An effective duopoly existed, consisting of the commercial television sector of RAI (the public radio and television broadcaster) and the private sector Mediaset Group which dominated the market for advertising. The OSCE’s media watchdog found that the Gasparri law, while introducing some modernisation to the media market in the period of transition from analogue to digital television (viewable only using digital equipment or a decoder), did not really weaken the dominant positions of the main players, who still controlled 90 percent of all TV audiences and revenues. The OSCE also judged that the Frattini law of July 2004 had not resolved the conflict of interest arising from the two roles played simultaneously at that time by Silvio Berlusconi as both Prime Minister and media owner. The OSCE’s Media Freedom Representative described the provisions of the Frattini Law as “a source of concern from the point of view of the quality of democracy”, and recommended the use of a blind trust as the most appropriate solution.

The definition of a “dominant position” in the market has changed with the bill introduced by Telecommunications Minister Paolo Gentiloni which was passed in October 2006 by the present centre-left government led by Romano Prodi. At the time of writing the bill is not yet in force, not having completed its progress through Parliament. Under its proposed rules an organisation would be deemed to hold a “dominant position” if it obtained more than 45 percent of advertising revenues. Also, a key feature of the Gasparri Law, the “Integrated System of Communications” (SIC) would disappear. This imposes a ceiling of 20 percent of ownership for a wide range of media that includes printed paper, publishing, radio and TV, internet and cinema. Television networks would no longer be subject to fines or other monetary penalties but would instead be subjected to a reduction of between 16 and 18 percent in the amount of advertising permitted per hour of broadcasting.

Minister Gentiloni said that the primary objective of this bill was to “open up the market of advertising resources and frequencies”. The Gentiloni Bill provides for the transfer of one analogue channel to terrestrial digital for both RAI and Mediaset, which currently have three television channels each. It also envisages the switchover of all the networks to digital by November 30 2012. For the frequencies that would be released and made available an obligation to sell is introduced based on criteria set by the Communications Regulator, while frequencies “in fact used” would be returned to the State and offered for tender.

The proposed law would strengthen guarantees of media freedom by assuring more independence for the system of audience measurement, Auditel. At present Auditel is managed by the same organisations (RAI and Mediaset) that it monitors. In future, in the event of conflicts of interest, the Communications Regulator will itself gather the data. Penalties of up to 6 years in jail are envisaged for manipulating data.

The current Gasparri Law lays down that RAI is managed by a Board of Directors made up on nine members, seven of whom are chosen by Parliament and two, including the chairman, are appointed by the Ministry of Economy and Finance, the major shareholder. In effect RAI is under the control of both the government and the political parties, which decide indirectly on the appointment of executives and the hiring of journalists. Minister Gentiloni has proposed that RAI’s governance should be entrusted to a Foundation in which cultural institutions and representatives of civil society would be represented, so easing the grip of the political parties over it.

In July 2007 the European Commission followed up an earlier warning letter with further criticisms, especially of plans for the digital switchover. It said that these impose “unjustified restrictions on the supply of radio broadcasting services” and “concede unacceptable advantages to existing analogue operators” – that is, RAI and Mediaset. Brussels gave the Italian government two months to review the Gasparri law regulations. The European Union has also raised objections to the 45 percent ceiling on advertising revenue proposed by the Gentiloni bill, and the Minister has said he will re-examine the mechanism to bring it more into line with European standards.

A few days after the European Union’s latest warning Corrado Calabrò, head of the Communications Regulator, gave what he called a new snapshot of the situation in the radio and television markets, showing that significant changes were already taking place. He maintained that the RAI-Mediaset duopoly has already in effect come to an end, because in 2006 the share of RAI and Mediaset in the television sector amounted to 34 and 29 percent respectively, while Sky (controlled by Rupert Murdoch) had also attained a strong position with 28% of the revenues.

Nevertheless concerns remain. According to Calabrò, uncertainty about the switch-over to digital is “prolonging the state of unbalance in pluralistic structures”. In this sector Mediaset was found to be receiving 55 per cent of advertising revenues, compared to 34 percent for RAI and 3 percent for La7, another private TV company owned by Telecom Italia Media. Sky is also advancing in this sector.

The distribution of advertising resources between TV and the print media remains very unbalanced in comparison with other European countries. 53 percent of these revenues now go to TV and only 32 percent to the printed media, although the trend is clearly moving in favour of newspapers.

The Communications Regulator Mr Calabrò called on the RAI management to provide “more quality, more culture, and more innovation.” He hoped that the new legislation would make RAI “independent of politics, distinguishing public service activities from commercial ones”. He criticised the complicated and cumbersome system of regulation inside RAI and said that “the pressure of advertisers and the politicisation of structures are obstacles to a better utilisation of internal resources.” There are other inconsistencies, too: while reporters such as Enzo Biagi and Michele Santoro who had been exiled by the Berlusconi government have returned to the RAI screen, today there is criticism of the absence from public television of other qualified reporters who have been parked off screen on full salaries.

Meanwhile the whole media industry in Italy has been going through a period of turmoil because of a dispute over renewal of journalists’ employment contracts that has been dragging on for over two years, with on and off strikes in both newspapers and radio and television news programmes. The current centre-left government has prepared a draft law on publishing, with the ambition of re-ordering the entire sector after what it calls “60 years of occasional interventions in response to emergencies”.

Some of the government’s proposals, like the registration of publications by the Communications regulator – representing the power of parliament and the government – instead of in the courts, have been perceived as a prelude to the abolition of the Order of Journalists, although the government has denied such it has any such intention. The Order of Journalists was established by law in 1963 for the self-government of the journalistic profession. Its value has long been questioned; indeed a referendum was once proposed to abolish it. Even its defenders acknowledge that its links to academic institutions need to be strengthened.

The Order of Journalists has the task not only of ethical self-regulation but also of administering a system of qualifications for entry to the profession. It registers the names of full-time journalists as well as those who contribute to the media while working in other professions. It does not act as a trade union and has few, if any, counterparts in other countries. strengthened.

The President of the National Council of the Order of Journalists, Lorenzo Del Boca, has accepted that the Order of Journalists requires profound reform. He has called for more investment in training and the intellectual preparation of journalists who, he says “in order to explain what is happening must first understand it properly”. Italy has no specific degree courses for journalists, but professional status is acquired by a passing an examination after at least 18 months of practice with a journalistic publication. Under reforms proposed by the current Minister of Justice Clemente Mastella the degree would become compulsory for entry to the profession, but the Order of Journalists strongly opposes any such radical change.

Concerns have also been aroused by another bill introduced by the Justice Minister which was approved by a large majority in the Chamber of Deputies. It will regulate publication in the media of telephone taps that form part of judicial investigations or inquiries. In fact, the restrictions imposed on freedom of publication of such intercepts are accompanied by severe penalties, with fines of up to 100,000 euros and a period of imprisonment. Mr Del Boca has reacted sharply, saying that “it would be the first time that an external power would have the possibility of acting and pronouncing on the professional ethics of journalists ... Furthermore, the threat of imprisonment for journalists, punished only for having exercised their profession, would set us back decades”. The new law creates new obstacles to the reporting of judicial matters.

This summer the offices of the journalists Carlo Vulpio of the *Corriere della Sera* and Chiara Spagnolo of the *Quotidiano di Calabria* were searched by police after they had published details in their own newspapers about judicial investigations that involved both politicians and magistrates in the Calabria and Basilicata Regions. The searches “for leakage of information” led to the impounding of personal computers, floppy discs, notebooks, telephone address and books. The Matera Appeals Court later accepted the journalists’ appeals for return of most of the impounded material.

On the question of the media dissemination of information about criminal proceedings, a passionate and reasoned defence of press freedom has come from some of the most highly qualified legal quarters in Italy. The recently deceased Corso Bovio, a lawyer, professor and journalist, affirmed that “the journalist must be considered – equally with the parties to the trial – a holder of the right to obtain a copy of the records or at least the essential ones (no longer covered by secrecy).” This, he said, requires that “journalists have an adequate cultural background and an ability to read, interpret and criticise the records”.

A more optimistic assessment is made by the Director of the ANSA news agency, Giampiero Gramaglia. He judges that in Italy, as in Europe as a whole, pluralism is assured by the diversified ownership of the media, the multiplicity of publications and the wide spectrum of opinions in the leading dailies. Nevertheless he says it would be illusory to think that media owners do not influence editorial content.

Conclusion and Future Action: The issues and examples raised here are among the most significant for media freedom in Italy. Many others were considered in detail earlier this year at the Round Table “Freedom of the Press and of Expression – Pluralism and media ethics” (*Libertà di stampa e di espressione - Pluralismo e deontologia dei media*) sponsored by the Italian Section of the Association of European Journalists. They include the professional ethics of the journalist; the right and duty to inform and be informed; the need for free and respectful access to sources; the safeguarding of privacy and of personal data; the relationship between media, users of information and public personalities, the new information technologies; the Internet and the criminal law. The Proceedings of the Roundtable are published on the website of the AEJ Italian Section, www.aje.it.

THE NETHERLANDS



By Fred Sanders

Overview

In the Netherlands freedom of expression is widely valued as one of the fundamental freedoms, and freedom of the press is seen as a precondition for this most fundamental human right. Dutch journalists do not have many serious problems in their relationship with the government. Nevertheless, two recent developments have given us reasons to worry.

Case Study 1) Journalists detained for not revealing sources

On November 27 2006 two Dutch journalists, Bart Mos and Joost de Haas, both crime reporters with the largest Dutch daily *De Telegraaf*, were arrested and held in detention for three days in a jail in the Hague because they refused to reveal the sources of their reports. Their treatment at the hands of the authorities raised two issues – the principle of confidentiality between journalists and their sources of information, and the suspicion that the arrest of the journalists was part of an attempt to cover up an embarrassing failure on the part of the Dutch intelligence service.

In the Netherlands, journalists' right not to disclose their sources is generally accepted. Without it, the relationship between a journalist and his sources would be seriously impaired. Bart Mos and Joost de Haas were appearing as witnesses in the trial of a former Dutch intelligence officer accused of giving information to a drugs dealer. They had cited unnamed intelligence sources in writing a series of newspaper articles about the case. The two journalists were detained after they refused to say where they had obtained their information. *De Telegraaf*, the Dutch journalists' union, and international media groups all issued protests at the arrests, and three days later, on November 30th, they were released.

The authorities' unusual step of detaining the journalists raised the question of why they found it necessary to resort to such heavy-handed action. It emerged that the journalists had learned about an unauthorised leak from within the Dutch criminal intelligence service. Somebody inside that service had passed information about an investigation into the theft and illegal sale of a consignment of weapons to a well-known criminal who had later been murdered. Another source, probably from within the same service, had told the two crime reporters about the leak, and the court had ordered their arrest when they refused to cooperate in revealing who the source of it had been. Suspicions were voiced that the intelligence service had sought to cover up its own embarrassing mistake.

Later it turned out that some of the weapons may have been stolen from a secret arms depot dating from Cold War days related to a NATO programme called Gladio.

Case Study 2) The art of political spin: the Prime Minister tries to seize the news agenda

It is not unusual for politicians to feel dissatisfied with the way their glorious deeds are reported in the media. They prefer to be in a position to steer the way their deeds are reported and to use spin to create a more positive image with the general public. A subtle but meaningful Dutch example of this is the fact that since the summer of 2006 the weekly meetings of the prime minister with the press no longer take place in the International Press Centre Nieuwspoord, the home of the press in The Hague, but instead at the Ministry of General Affairs, the office of the Prime Minister.

The change is significant. Even though the Prime Minister's spokesman anyway chaired the press conference, Jan-Peter Balkenende used to be the guest of the parliamentary press. Now, at the new venue, members of the press have to follow the wishes of the Prime Minister's press office. The move at first provoked complaints, and even talk of a boycott, but the journalists concerned could not generate the solidarity needed for such a determined resistance and they have accepted the new status quo.

The journalists are of course still free to write as they wish. They are also free, within certain limits, to put the questions they want. But this apparently innocent move represents a strengthening of the grip of the government's spin doctors on the political news.

Conclusion and Future Action: Our conclusion is that even in a country where in general we do not have many complaints about freedom of the press, journalists must stay vigilant in defence of the right to question and criticise those in authority.

POLAND



By Krzysztof Bobinski

Overview

Poland retains a great measure of media freedom and freedom of speech, and there is no formal censorship. However the political atmosphere in the country makes the achievement of common ground on issues of public concern very difficult. Poland's parliamentary and presidential elections in the autumn of 2005, which ushered in a coalition government in power for two years led by the Law and Justice Party, gave rise to an unprecedented polarisation of the country's political scene. Subsequently, the continuing divisions and a determined drive by the governing coalition of that period to make the news and comment in the media reflect its own political agenda has affected both the public and the private mass media. It has made it difficult for journalists to retain objectivity and to debate issues of public interest independently of the direct influence of the politicians.

The general election of October 21 2007 has changed the political landscape again, ensuring that a moderate conservative party, the Civic Platform, will lead a new government. It inherits a polarised society which also affected leading parts of the media have also been deeply affected. That polarisation reached a peak of intensity in the run-up to the parliamentary elections. The Law and Justice Party underscored its fight against corruption as a major plank in its platform. The then prime minister Jarosław Kaczyński also claimed in an interview in the newspaper *Rzeczpospolita* on September 15 that "the majority of the media are under the control of the oligarchs". The strong implication was that he believed the media would resist his party's anti corruption drive at the behest of media owners and their friends in big business.

President Lech Kaczyński, Jaroslaw's brother, remains in office and retains considerable powers. Thus relations with these media are likely to continue to be strained. In Poland the print media are under private ownership while public television and radio continue to be very influential, being watched and listened to by around half of the population.

The present pressure by ruling politicians on the media to reflect their point of view has exacerbated trends which have always been present in Poland's public domain since the return to democracy in 1989. It can be fairly said, however, that the zeal of the recent administration has inculcated a habits within the media of conforming to strong pressure from those in power. The issue remains especially acute regarding the management of public television, which is the subject of the **Case Study** below.

In addition the legal system is weighted against investigative journalism. Libel remains a criminal offence, and laws protecting state institutions from criticism have been successfully used in prosecutions against journalists, resulting in fines and suspended prison sentences in several cases. Critics have alleged that the courts and prosecutors have been less than fair in the discharge of their duties.

The print media remain unlicensed, but the licensing system for television and radio became the subject of intense political arguments. One of the first actions of the incoming government

in 2005 was to reform the licensing body, the State Committee on Radio and Television, staffing it with appointees of the ruling coalition parties and excluding representatives of the opposition who had previously been members of the committee. This led politicians from the ruling parties to treat the publicly-owned national and local, mass media as “theirs”. The privately-owned TV and radio media have kept up a constant stream of critical reporting in their outlets, but have constantly had to worry that they could face a backlash from the authorities which might put their broadcasting licences at risk.

In addition the existence informal black lists of commentators invited to appear in the public broadcast media has in effect meant the disappearance of some figures from the airwaves, while others who were closer in spirit to the government in power, who were previously marginalised, returned to public view.

Case Study: Manipulation of news and comment in public television

All three of Poland’s main television broadcasters – the publicly-owned television TVP, and the private stations TVN and *Polsat* broadcast news and current affairs programmes, and each also has a 24-hour news channel (*TVP3*, *TVN24* and *Superstacja* respectively). The three channels of TVP have a commanding position, enjoying the loyalty of around 60 per cent of the viewing public. Its main news programme, *Wiadomości*, is watched daily by around four million people, compared to three million each for TVN and *Polsat*. TVP is funded by a licence fee paid by each household owning a TV set as well as by significant advertising revenues, while the private broadcasters are dependent on advertising revenues alone. This means that TVP remains a significant opinion former and is seen as such by the politicians. It is also under a formal obligation to present a balanced view of current events, enabling viewers to form judgements on political and social developments in the country.

Given the intense pressure exerted by Polish politicians of all the main parties to influence the content of news and current affairs comment on public television, it is questionable whether the goal of achieving a politically balanced debate on issues of public concern for Polish society is at all feasible. Indeed the conversations held by this reporter on the issue in Poland could well have been conducted at times in both Italy and France, which also face questions about the independence of their national broadcasting organisations. This suggests that media which are subject to the decisions of politicians will always be open, to some extent, to interference by those politicians and by the government bureaucracy.

In Poland the professional journalists’ associations and trade unions are weak. Both are outspoken in defending the jobs of sacked members, but they rarely protest over issues of editorial independence. As a result, journalists and editors are extremely vulnerable to outside pressure from politicians, especially those in the ruling coalition.

In effect the government which came to power in the autumn of 2005 rejected the broad liberal consensus that had existed in Poland regarding both internal and foreign affairs since 1989. That government defined its role as one of clearing the country of lingering communist influences and corrupt networks in business and the professions. It also made no secret of its determination to clear the publicly owned media of people employed since before 1989, including the managers appointed by previous administrations. It sought to replace them with those in tune with the government’s thinking and policies.

Personnel changes have been made in the past two years but the process of establishing control has not been easy. The initial appointments to top management position in TVP brought in figures sympathetic to the new government who also wanted to retain editorial independence and balance. These appointments were later undone. The same commitment to impartiality was strong among rank and file journalists, who also sought to resist the political pressures. However a process of attrition whittled away the opportunity for real editorial independence.

This was done in the following ways:-

Departmental heads were replaced with younger, less experienced journalists who supported the government line. These new managers ensured that politicians speaking for the government were given ample exposure and were not set against spokespeople from rival parties who might outshine them. In the day to day news coverage efforts were made to minimise incidents which might reflect badly on the ruling party. The term “political officer” has entered into TVP’s everyday vocabulary, revealing how this mechanism came into force in the world of public broadcasting.

Journalists who resisted efforts to slant the news were not sacked but transferred to other posts or left on very low pay and not assigned tasks which would allow them to earn higher wages. One TVP employee said “I consider this to be the single most manipulative mechanism in TVP. Thanks to this it is possible to break people by threatening them with a bread line income. When it happens, people either vegetate or resign. In the latter case management is able to get rid of them without having to sack them”.

This pattern of behaviour means that self-censorship has become prevalent. Journalists have a sixth sense as to the people who should be invited to appear on TV and those who should not. “It’s in the culture of the place” says another TVP staff member. “No formal blacklists exist on paper, but a passing remark or raised eyebrow can be enough for a producer to know that the appearance of a particular person on the screen could damage their career.”

This mechanism also works the other way. People once marginalised by the previous liberal consensus appeared more often on TV. This has applied to intellectuals with conservative views on matters of morals, or with nationalist opinions with respect to Poland’s neighbours like Russia or Germany. Supporters of the EU became less prominent then before, while its critics received more exposure.

TVP has also seen a major influx of journalists trusted by the Law and Justice Party-led government from outside the organization, who work on a casual basis but present and appear in programmes regularly. This meant that de facto a change in personnel was accomplished without sackings on a major scale. Many of the same mechanisms appeared in the state radio organisation *Polskie Radio*.

Conclusion and Future Action: The situation described here poses the important question of whether in a young democracy such as Poland’s publicly owned media are to serve the interests of the viewers as a whole or are to be treated as the property of the politicians ruling the country at any given time. Present experience suggests that the latter is now the case. This does not serve either society at large, the credibility of the broadcast institutions involved or the ethical standing and professional morale of the journalists who work in them. The country has experienced a politicisation of the public broadcasting media under governments of

various complexions in recent years which has effectively prevented the presentation of a fair balance of political developments and views. It is imperative for the freedom and independence of Poland's media as a whole that laws and practices are swiftly put in place to correct the aberrations of the past.

ROMANIA



By Ruxandra Ana

Overview

The Romanian media market has grown in size and diversity in recent years and the laws provide formal guarantees of media independence. But in practice media freedom and independence are a distant prospect because of the high concentration of ownership in a few hands and the media's direct involvement in the bitterly partisan disputes and power struggles among rival political figures in the recent past.

The mass media in Romania suffer acutely from a lack of political independence, which has undermined public trust and encouraged suspicions that powerful figures in public life have used their influence in the media to achieve partisan political ends or to orchestrate deliberate smear campaigns against opponents. Professional journalistic standards are patchy or poor. Unsourced reporting and personal attacks are commonplace and there is a growing overall trend towards sensationalism and trivialisation of issues.

At the time of writing an attempt is being made by lawmakers to enact a number of new "press offences", including a ban on secret filming, which would further inhibit media investigations of high-level corruption. The proposed offences would carry a maximum jail sentence of seven years. Romanian political life has recently been marred by arguments over corruption-related investigations involving a former Minister of Agriculture as well as the former prime minister, Adrian Nastase, and others. A figure who did much to establish an independent judiciary and to root out high-level corruption as Justice Minister, Monica Macovei, was ousted in a political dispute in January 2007.

Long-standing concerns about overt political influence and mismanagement in Romanian Public Television (TVR) still persist. A new law designed to answer critics both in Romania and abroad has been long delayed in parliament. The core weakness of the system is that it allows the political parties to appoint the members of the management boards for both public TV and radio, and that flaw has not been corrected. The dispute has grown especially rancorous because of the perceived importance of public television and radio in influencing public opinion at a time of a fierce and sustained confrontation between rival political camps represented by President Traian Băsescu and Prime Minister Calin Popescu Tariceanu.

Romania's broadcast media are included in an ongoing study by EUMAP, the EU Monitoring and Advocacy Program of the Open Society Institute in cooperation with OSI's Network Media Program. Its first report Television across Europe: regulation, policy and independence is available at <http://www.eumap.org>.

Since the fall of the communist regime in 1989 the Romanian media have gone through sweeping changes, as have the other newly-established democracies of the region. The media were no longer forced to do the bidding of an all-powerful communist party, and censorship was abolished. However, new more subtle forms of control media soon developed, in which ownership of the commercial media sector was often used as a tool to achieve political

influence. Today a very few private players dominate the media market and serve the rival interest groups around the President, the Prime Minister or one or other of the leading political parties. There is a general lack of transparency, since anti-monopoly laws are weak and ineffective, and the owners of media companies are able to avoid disclosing information about their finances.

The Romanian political struggle has intensified this year with the parliament's decision in April to suspend President Bănescu from office for allegedly usurping the role of the prime minister and Mr Bănescu's subsequent re-instatement in May following his endorsement in a popular referendum. The polarisation of the media during this period, and the lack of restraints or standards in political reporting, have highlighted the need for much tighter rules to ensure minimum standards of public information and decency. The following case study of the much-publicised incident involving President Traian Bănescu and a woman journalist on the day of the referendum serves to illustrate the lack of impartiality or reliable professional standards within the Romanian media.

Case Study: Low standards of Romanian politics and media revealed by the “presidential insult” story

The referendum took place on May 19 2007 after a majority of MPs had voted to suspend President Bănescu with a view to trying to impeach him for violating the Constitution by exceeding his powers to intervene in domestic politics. The President was re-instated when 74% of voters rejected the impeachment proposal, in line with an earlier decision of the constitutional court that he had not abused his powers.

On the day of the referendum the President was followed by Andreea Pană, a journalist from the TV station *Antena 1* from the school where he had voted to a supermarket. There she used her mobile telephone to film him shopping with his wife. The reporter questioned him persistently about the referendum vote and Mr Bănescu lost his temper, snatching her phone and putting it in his pocket. He failed to realise as he drove away from the supermarket car park that the phone was still recording, and his voice was recorded as he remarked to his wife “that stinking gypsy was so aggressive”. After getting home the President gave the phone to presidential security agents who returned it to the reporter without deleting the recording of the exchange between the President and his wife. A public furore broke out when the contents of the recording were broadcast on Romanian television channels.

Romania, which joined the European Union on January 1 this year has Europe's largest population of Roma, who are sometimes colloquially referred to as gypsies although the term is acknowledged to be offensive. The EU has repeatedly told Romania it must do more to stop discrimination against the more than two million Roma people, who represent the poorest and largest ethnic minority. Little effective action has been taken, despite many warnings from the National Committee against Discrimination and other NGOs representing minorities. Furthermore the media themselves are commonly regarded as playing a significant part in sustaining the social climate which makes the discrimination possible. Yet after the incident involving the President and journalist Andreea Pană many leading media titles, especially those owned by fierce critics of the president, seized on the scandal to express indignation and to conduct a fresh campaign of denunciation of the President.

Much of the most strident criticism of the president came from commercial newspapers and TV stations which are owned by figures who are known opponents and critics of Mr Bănescu. Among them was the *Adevărul* newspaper, owned by Dinu Patriciu, a supporter of the Prime Minister in his clash with the President; Impact Media Trust, including *Antena 1* and *Antena 3* television stations, which is owned by Dan Voiculescu, leader of the Conservative Party; and *Ziua* newspaper, led by Sorin Roșca Stănescu, a journalist who identifies himself as an opponent of the President and who has acknowledged his past involvement with the Securitate secret police in communist times.

President Bănescu was publicly reprimanded by Romania's National Council Against Discrimination, which called his remarks "degrading". And a few days after the incident he made a public apology to the journalist whom he had insulted. The Romanian National Press Club also filed a complaint, calling the President's words "unacceptable and abusive". An appeal by the Romanian National Press Club for a media boycott of coverage of the President's re-instatement in office had little or no impact.

The President's supporters maintain that the media onslaught against him was opportunistic, and was used largely as a pretext to weaken his authority at a time when he had already been deeply embarrassed as a result of his own lack of self-control. The 2006 report of the Romanian Agency for Press Monitoring (website <http://www.mma.ro>) investigated the picture of the Roma and other minorities portrayed in the national and local press, and had concluded that many parts of the media were themselves guilty of perpetuating negative images of Roma people.

Conclusion and Future Action: This unedifying episode reflects poorly on all concerned. The Romanian media are riven with political factionalism. They lack the professional rigour and independence needed to tackle the chronic problems of corruption and discrimination in the society. Romania's public broadcasting services are in urgent need of reforms to bolster their genuine independence. And the Romanian media as a whole urgently need guidance and support from outside bodies, including their European journalist colleagues, to help to raise standards and to restore the reputation of the profession inside Romania.

THE RUSSIAN FEDERATION



**By Manana Aslamazyan and Gillian McCormack,
Internews Europe**

Overview

Russia ranks low in international and local press freedom assessments. The 2007 Reporters Without Borders report “Freedom of the Press Worldwide” highlighted the unsolved murders of 21 journalists since the year 2000 and the many media take-overs by interests close to the Kremlin as developments that “seriously threaten news diversity and freedom of expression” in Russia. The Global Press Freedom Rankings in 2006 produced by Freedom House put Russia 158th out of 194 countries and described its status as “Not Free”.

However, Russia has a highly diverse and dynamic media market, with approximately 1,400 television companies, ranging from huge national media corporations to tiny regional stations serving local communities. There are around three thousand radio stations and 25,000 newspapers, magazines and journals - from major national broadsheets with big circulations to small village papers. Internet usage is growing fast – the percentage of users among those over 18 increased from 16% in 2004 to 19% (or 20.9 million people) in 2005, according to figures issued by the Public Opinion Foundation in the Media Sustainability Index 2005, IREX. The Russian advertising market is one of the fastest growing in the world, increasing in value by up to 50 percent per year. The production of TV programming is also booming, with Russian productions having completely taken over prime time viewing from foreign films and series in the last five years. Media concentration is a growing concern, especially with regard to the concentration of media companies in the hands of state or quasi-independent companies loyal to the state. For example, since Gazprom-Media’s take-over of NTV, all three federal television channels have effectively become state-controlled.

It would be fair to say that professional ethics are a minority concern amongst Russian journalists. Russian journalists are resistant to forms of self-regulation, which they regard as a further limit to their expression at a time when self-censorship is already high. They are generally cynical about ethics because there is a lack of professional support from unions and associations, they can expect no back-up from public opinion, and their own employers tend to ignore such concerns because of the strong pressures of commercial competition.

Journalists, with the exception of those working for federal television, are paid low wages and tend to combine their journalistic activities with PR or advertising in order to supplement their incomes. While technical quality has improved, there has been a move towards greater production of entertainment rather than news. This partly reflects a world-wide tendency towards “infotainment”, but is mainly based on a desire to avoid conflict with the local or federal authorities. Investigative reporting is still to be found, primarily in the print and online media, but the fact that so many reporters who engage in their own investigations into the authorities or major businesses have been murdered acts as a deterrent to others. Those guilty of these murders have rarely been brought to trial.

There are two contrasting schools of thought with regard to the state of Russian media freedom. One is that the Russian media are indeed free, and the proof is the existence of newspapers and radio stations where views are expressed which are critical of the government, the dynamism and growth of online publishing and blogging, the work of brave and outstanding Russian journalists who have exposed corruption and crime, and the increase in the production of Russian documentary films and political talk shows. The other school of thought is that media freedom in Russia has broadly been extinguished. This viewpoint is supported by the take-over of formerly independently owned media by companies controlled by the state, the many criminal libel and slander cases brought against journalists, the failure of the police to successfully identify and prosecute those responsible for the assassination of journalists, the prevalence of self-censorship and the interference of the government in broadcast news programming for the express purpose of propaganda. Both positions are tenable. The number of Russian documentaries and talk shows is increasing, but the documentaries tend to be pro-government and the political talk shows are pre-recorded in order to sift out comments that might be critical of the authorities.

Case studies: Barriers to media freedom

Case Study 1) The Russian government manipulation of the media

Overt government pressures on leading media outlets designed to produce favourable coverage are well documented. On 24 February 2004, *Novaya Gazeta* published excerpts from a document leaked from Russia's main national broadcaster, Channel One. It was called "Temnik No.11", a weekly instructional pamphlet detailing how specific events should be covered in the news, produced by analysts from several government think tanks and the then deputy Minister of Foreign Affairs. With regard to events to be covered that week in Georgia, it contained his explicit recommendation: "...at the current time it is worthwhile employing the strengths of information and analytical programmes to begin a mass propaganda campaign against Shervardnadze personally, using anti-Shevardnadze politicians and powers inside Georgia and the Georgian diaspora in Russia". In May 2007 eight journalists from the Russian News Service resigned in protest when new management from state broadcasting brought in new information policies which included a blacklist of opposition candidates to be excluded from the airwaves and a minimum quota of 50 percent of "positive news about Russia".

In addition to heeding such concrete instructions and blacklists, senior figures from the major media organisations attend a weekly meeting at the Kremlin to discuss news policy with members of the presidential administration. And as an added precaution journalists and editors tend to exercise self-censorship, taking care not to cause offence to the Kremlin.

Case Study 2) Criminal libel and defamation laws used against journalists

Defamation and libel are still treated under the Criminal Code rather than the Civil Code. Article 319 of the Russian Criminal Code makes it a crime to "insult the representatives of power". The lack of an independent judiciary creates the possibility of arbitrary and unfair sentencing, and there are very few lawyers specialising in defending media cases.

According to monitoring carried out by the Moscow-based Centre for Journalism in Extreme Situations 38 lawsuits were brought against journalists and other members of the media in 2005, and 22 lawsuits in 2006. One of the most troubling incidents was the sentencing of Smolensk radio journalist Nikolai Goshko to five years in prison in 2005 for defamation. In

2000 the owner of Radio Vesna, Sergey Novikov, had been killed after alleging corruption in the governor's office. The day after the murder, which remains unsolved, an emotional Goshko went on air and publicly accused two Smolensk officials and the then governor of having orchestrated the killing. Goshko's sentence of five years was extreme, considering that the maximum penalty under the criminal legislation governing defamation is three years. In that case the judge arbitrarily added two more years, citing a previous minor conviction as justification. Currently five Russian journalists are serving prison terms for "insult" crimes.

Conclusion and Future Action: Media organisations argue that such sentences are unjust and that Russia should remove libel and defamation cases from the Criminal Code and deal with them in the civil courts. They also argue forcefully that Article 319 of the Criminal Code, which makes it an offence to insult representatives of state power, is unacceptable in a democratic system. As long ago as 1986 the European Court of Human Rights, which enforces the European Convention on Human Rights in all Council of Europe member states, established the principle that politicians should enjoy less protection from defamation than ordinary citizens, not more, because of the public interest which is served by having their statements scrutinised by journalists and by the public. In the words of the court's judgement, of 8 July 1986, "The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual". Russia joined the Council of Europe in 1996.

SLOVAKIA



By Peter Kerlik

Overview

The state of media freedom in Slovakia can be described as standard for Europe. That means that Slovak journalists face the same daunting array of problems in the exercise of media freedom as our colleagues in many other EU countries. A symptom of the present malaise is the increasing proportion of Slovak journalists who are obliged to work as freelances. Arne König, chairman of the European Federation of Journalists, highlighted the negative aspect of this trend in a speech in Bratislava on April 25th, shortly before the 2007 World Press Freedom Day on May 3rd. He accused many media employers in the “transition countries” of central and eastern Europe of cynically taking on more freelances, rather than full staff employees, in order to minimise their staff costs. “They live and work”, Arne König said, “under conditions of extreme insecurity in their financial and professional situation, and are not likely to be among the most investigating and independent journalists,” He added that these freelances might more accurately be called “forced-lances“ because there is not much “free” about the way they have to work.

There is also a marked lack of will among journalists to stand up for their professional rights through the main journalists’ union, the Slovak Syndicate of Journalists or SSJ. Many media workers apparently still view trade unions with suspicion because they associate unions with the communist past, and are averse to becoming union members themselves.

I will draw attention to three specific obstacles which Slovak journalists now face to doing their work independently and free of undue influences:-

Case Studies

1) Public broadcasting: a lack of independence guarantees: Slovak Television (STV) and Slovak Radio (SRO) are both public institutions whose independence is established by law. Their Directors-General, who exercise editorial control, are chosen by the STV and SRO Councils in the approved way. But there is a serious problem with the way the composition of the councils is determined. Their members are elected by the Parliament, which habitually ignores candidates with a genuine professional background. Instead, the candidates elected onto the Councils are usually figures chosen by the political parties to best represent their interests. This enables the Government to manipulate the decisions of the Councils. The arrangement has also been criticised by the European Broadcasting Union (EBU), but Slovak politicians have so far been deaf to the complaints.

2) The Media’s Relations with Government: Slovakia the media are inhibited from carrying out their proper role of scrutinising the actions and decisions of the government. The Prime Minister, Robert Fico, has made amply clear from his statements and behaviour that he considers the proper role of the media is to be polite and to report about the Government’s

activities positively, without criticism. The media have persisted in trying to do their job of reporting even-handedly. In response the Prime Minister has in effect declared war on the media, branding them the “political opposition”. In June the SSJ Executive Board wrote a letter to Mr Fico requesting a meeting to discuss the role of the media and Government. But three months have since passed without the Prime Minister deigning to answer. Several other cabinet ministers have followed his example. The European Federation of Journalists has strongly criticised Slovak politicians for their habit of rewarding friendly journalists with interviews while refusing to speak to others who are more critical, describing such behaviour as damaging to press freedom.

3) A clash with the European Human Rights Court: In September 2006 a Slovak journalist, Martin Klein, won a ruling in his favour from the European Court of Human Rights in Strasbourg in a test case about the limits of free expression. Martin Klein had appealed against his conviction and a fine of \$500 imposed on him for “defaming the Catholic faith” by a Slovak court. The Strasbourg court awarded the journalist a much larger sum in compensation, saying that the Slovak court ruling had violated his right to free speech. Martin Klein also lost his job with Radio Free Europe in the course of the lawsuit. The case arose out of Archbishop Jan Sokol’s demand for a ban in Slovakia on a provocative Hollywood film satire on Christianity, *The People vs Larry Flint* after a film poster appeared of a man seemingly being crucified between the legs of a bikini-clad woman. In response, in 1999 the journalist wrote a satirical and controversial article in a weekly magazine, *Domino efekt*, in which he crudely lampooned the Archbishop and alleged that he had collaborated with the former communist secret police – a charge which the Archbishop denied. By law the Strasbourg court decision should be final, but in late September 2007 Slovakia’s Supreme Court rejected the ruling of the ECHR and announced its confirmation of the original sentence. Further legal arguments surely lie ahead.

4) The Need for a Modern Media Law: Slovakia is the only post-communist country where the old Press Act of 1966 is still valid – with only one amendment, made in 1990, which removed references to the leading role of the Communist Party in the society. In view of the enormous social and political changes that have transformed Slovak society in the past nearly two decades it is high time the country had new and modern laws on media affairs. The Ministry of Culture has already prepared the draft of a new law which appears to have some merits. But journalists’ organisations are concerned that the present Parliament may amend it in ways that would but be harmful to media freedom and to the practice of independent journalism.

Conclusion and Future Action: The AEJ is also concerned. We call for changes that will provide transparency and fairness in the laws on public broadcasting, for a new Media Law in line with the best practice upheld by the Council of Europe and the OSCE, and for an end to the attempts by elected politicians to manipulate the media through discrimination or attempts to avoid proper media scrutiny.

SPAIN



By Pedro González

Overview

A series of threats of violence have intensified problems for media freedom in Spain in the past year, threatening the safety and the work of journalists and media workers. The threats have come from two sources: from fanatical Islamist groups and from ETA, the Basque separatist organisation which the European Union and other international authorities have designated as a terrorist organisation.

Numerous anonymous letters containing threats of violence signed by extremist Islamist organisations – some of them, like Al Qaeda, well-known, others new or previously unidentified – have reached the newsrooms of various Spanish media organisations in the past year. Most of these threats relate to the trial of suspects accused in connection with the 11-M (March 11 2004) Madrid train bombings which killed 191 people. This cascade of messages has threatened further violent attacks in response to what their authors describe as unfairness in the conduct of the trial and “lies” by the Spanish authorities and media about the Madrid bombings. The Internet has also been widely used by similar Islamic militant groups to denounce articles written by journalists who have covered the seven-month long court case. The final verdicts on the 28 defendants were to be handed down at the end of October 2007.

Some positive news for media freedom came in the form of the new Audio-visual Public Television Law. The new law had been promised by several successive governments in the past and has at last been passed by the government headed by the Prime Minister José Luis Rodríguez Zapatero. Apart from its detailed technical provisions related to the application of new audio-visual technologies, the new legal text importantly establishes a firm basis of financial support for Spain’s public radio and television, CRTVE, and the guaranteed independence of the CRTVE journalists. It was judged impractical to establish a broadcasting licence fee as in most other West European countries. Instead the new law follows the French and Italian model – a mixed system of a funding system relying about 50-50 on moneys from the State budget and commercials income.

To ensure the CRTVE’s independence, the new rules require that the President of the new Corporation and its entire Board of Directors are elected by Parliament for a six year term, and cannot be removed by the government. This represents a sharp break with the practice in the past, whereby the Director General was appointed directly by the government and his or her term of office lasted as long as the government remained in power. The new rules mean that the new President of CRTVE will in fact remain in his post during the terms of three different governments, because the Spanish legislature normally lasts for four years.

However the reputation of Spanish television in general has been seriously degraded in recent years by the proliferation of sensationalist talk shows whose staple fare is unrestrained abuse, slander or libel of celebrities and public figures. These loud and often offensive shows have given rise to lawsuits brought by prominent figures, including the Duchess of Alba and the celebrated actress Ana García Obregón.

The past year also saw the breaking of a long-standing convention of the Spanish media, that the royal family should be protected from personal attack or ridicule. The *El Jueves* magazine broke this taboo by printing a cartoon showing Crown Prince Felipe and his wife Princess Letizia making love. It was intended to be a satire on the government's so-called "cash for babies" scheme, which aimed to boost the nation's birth-rate. A Spanish court ordered that all copies of the edition of *El Jueves* with the offending cartoon should be withdrawn from sale, and the judge reminded its editor that damaging the prestige of the crown remains an offence which can lead to a prison sentence. The magazine protested at what it called a "direct attack on freedom of the press" but it was forced to comply.

The episode re-opened the heated debate of last year over the re-publication in some Spanish newspapers of the Prophet Muhammad cartoons which first appeared in a Danish paper. The issue once again was about the freedom of the media to mock figures for whom special protection is claimed. One side-effect of the dispute concerning coverage of the royal family appears to be a new willingness on the part of some members of parliament to demand closer scrutiny and controls over the King's financial affairs.

Case Study: ETA's campaign of violence and the media's political divide

June 2007 saw the end of a 15-month long official ETA ceasefire which had raised popular hopes of a long-term peace. But the Zapatero government's policy of conducting direct talks with ETA was deeply controversial, and in the end divisive, within the nation's media as well as between the main political parties. A wide gulf opened up between those media which supported the new government's "peace process" with ETA and others which continued to support the uncompromising policy of the former conservative government of the Peoples Party. The latter saw the Socialist government's behaviour as naïve, and condemned it as an attempt by the prime minister to recover his flagging popularity by apparently giving in to ETA's threats of more violence.

The period of the ETA ceasefire and the "peace process" gave rise to an extraordinary and completely new media landscape. Virtually all the press, as well as radio and television stations, opened their pages and airwaves to the figures appointed as "official negotiators" for ETA, including Arnaldo Otegui and Joseba Permach. For a period of several months during 2006 these figures were able to express themselves completely freely, often pressing the government's negotiators aggressively through the media on issues under discussion in the political talks. Mr Zapatero himself refused to confirm the details of the actual negotiations, but ETA skilfully used leaks to the media to increase its pressure on the government to make concessions. The result was an extreme polarisation of Spanish public opinion.

The bomb explosion in a car park at Madrid's Barajas airport in December 2006, which killed two people, led the prime minister to break off talks with ETA, which nevertheless maintained its formal ceasefire until June 2007. But the government's tactics left much of the media, which had so eagerly joined in the clamour for a peace deal, feeling deeply disillusioned. The conservative press, including titles such as *ABC*, *El Correo Vasco* and *La Vanguardia*, accused the government of seeking to misuse its powers to manipulate the media to its own advantage over an issue of vital national security.

After ETA's new declaration of war against the Spanish state in June 2007, senior journalists as well as politicians and officials have been obliged once again to hire bodyguards for their

personal protection. Daily threats have been made by ETA against media and journalists in many parts of Spain, especially in the Basque Country and Madrid. The contrast is stark. During the truce the most conservative newspapers, such as *ABC* or *La Razón*, could be freely displayed for sale in kiosks in the Basque area. But once the ceasefire was declared at an end such newspapers could again be circulated only clandestinely. So ETA's effect on freedom of expression was and still is suffocating. Dozens of journalist have been forced by ETA's campaign of fear and intimidation into self-exile outside the Basque region to other parts of Spain.

Conclusion and Future Action: The tactics of the Basque terrorists of ETA have exposed deep divisions along political lines among Spain's mainstream media, raising questions about their ability to apply objective treatment to this highly emotive subject. The media must show their independence of political pressures in order to report future developments on this and other sensitive issues accurately and impartially, and to restore public doubts about the media's commitment to reporting the news without fear or favour.

TURKEY



By Dogan Tilic

Overview

Despite government promises that restrictive laws will be repealed or eased the freedom of journalists in Turkey to report fully and objectively on the nation's affairs is still seriously limited by legal and other obstacles. The murder of Hrant Dink, the well-known writer and journalist of Armenian origin, outside his newspaper office in Istanbul early in 2007, attracted worldwide attention to the physical dangers as well as the restrictive legal and political environment faced by Turkish journalists. An ultra-nationalist youth is now standing trial for the murder, together with his alleged accomplices.

At the time he was shot, on January 19th, Hrant Dink, the editor of the weekly Armenian-language newspaper *Agos*, was under a suspended sentence after being convicted under Article 301 of Turkey's Criminal Code, which makes a crime out of denigrating "Turkishness" or Turkish state institutions. He was also facing the prospect of a new trial for attempting to influence the judiciary. The case against him was based on an interview he gave to the Reuters News Agency in 2006 in which he expressed his belief that an Armenian genocide in fact took place during World War One, shortly before the break-up of the Ottoman Empire.

The attempt to prosecute the Turkish novelist and winner of the 2006 Nobel Prize for Literature, Orhan Pamuk, under Article 301, also focused international attention on the grave limits to free expression in Turkey and provoked protests from journalist and human rights organisations around the world. Orhan Pamuk had dared publicly to question official estimates of the number of Armenians killed early in the last century, and said that Turkish people must be allowed to talk about their nation's past without fear. Article 301 of the 2005 Penal Code is the successor of Article 159 of the previous Code. The charges against him were eventually dropped.

The Media Monitoring Desk of Turkey's Independent Communication Network (BIA) said in its 2006 Annual Report that in all 293 individuals had faced legal action connected with freedom of expression, and many of those cases were opened under Article 301. The BIA project is largely funded by a grant from the European Union, which has told the Turkish authorities they should repeal restrictions on free expression such as those in Article 301 in order to meet the EU's civil rights standards.

The climate for freedom of expression and media freedom in Turkey has in fact improved markedly compared to the situation ten years ago. During the 1990s about 40 Turkish journalists were killed because of their work, and hundreds more were imprisoned. Since the year 2000 the murder of Hrant Dink is the only reported killing of a journalist, and the number of journalists who have spent time in jail has fallen sharply to a few dozen in total. The Turkish Press Council, a journalistic body concerned with self-regulation and professional standards, recently found that no more than two or three journalists were currently in prison because of activities related to their professional work.

However, as detailed in the Case Study below, a large number of journalists have been prosecuted under Article 301, which still carries a maximum penalty of three years in jail. Many of them have been convicted and sentenced to non-custodial sentences, despite constant pressure from NGOs, trade unions, intellectuals and journalists' organisations who continue to condemn the restrictive laws as major impediments to freedom of expression.

Three Case Studies

Case Study 1) Article 301 and other restrictive laws – barriers to legitimate reporting

Senior politicians from the ruling AK (Justice and Development) Party, including the newly-elected President Abdullah Gül, who was previously the foreign minister, have acknowledged the need for changes to Article 301 and related legislation, but prosecutions continue to be brought against journalists under these laws, often resulting in severe personal hardship for those affected.

In October 2007 Arat Dink, the son of the murdered Hrant Dink, and a colleague of his working for the *Agos* newspaper, Serkis Seropyan, were found guilty under Article 301 and each given 1-year suspended prison sentences for publishing Hrant Dink's comments about the mass killings of the Armenians nearly a hundred years ago. The trial of the two men was closed to the public and the press on the grounds of security, limiting the opportunity for media reporting of the highly controversial case.

Leading figures in the Turkish armed forces were outspoken in criticising the AKP government before the early elections in July 2007, and have recently been accused of bringing their influence to bear directly on the media. On April 21 2007 the editor-in-chief of the news weekly *Nokta*, Alper Gormus, announced the closure of the magazine following reported pressure from the army. *Nokta* has long been one of Turkey's most successful news magazines, and its demise is a clear demonstration of the risks of covering army-related news. It is alleged that the magazine's owner, Ayhan Durgun, had come under intense pressure from senior figures in the military.

Alper Gormus is on trial for publishing extracts of retired navy Vice-Admiral Ozden Ornek's diary, in which he said that Turkey had narrowly escaped two military coups in 2004, early on in the AKP's first term of office. Mr Gormus is being tried for insult and slander, with a sentence of 6 years and 8 months demanded. The case continues. He has publicly complained about the pressures that were applied to have his magazine closed, and has also criticised the failure of elected politicians to defend the freedom of *Nokta* to publish in the face of alleged attempts by the army to suppress its reporting.

Another journalist, Lale Sariibrahimoglu, an experienced reporter on security and military matters, has also been stopped from questioning the army's influence in politics. She went on trial on October 24 2007 in a court in Bakirkoy, Istanbul, after she was quoted in an interview with *Nokta*'s Ahmet Şık on February 8 as saying the army must stay out of domestic security. She and Ahmed Şık are both being tried under Article 301/2 and Article 53/1 charged with "denigrating the armed forces", and face prosecution demands for jail terms of up to three years. At the first court hearing the case was adjourned until next year.

Other articles of the Penal Code have also been used to restrict free speech and expression. Article 216, which prohibits instigating “hatred or hostility” and endangering public security, was used in 35 cases in 2006. In the same year, eight people were prosecuted under the Law on Crimes against Atatürk (the founder of modern Turkey) and 24 were prosecuted on charges of “attempting to influence the judicial process”.

The Turkish government has begun the process of preparing to pass a new “civilian” constitution which is meant to replace the present one which came into force under the military regime of 1980 following an army coup. The details are not yet clear but the new constitution is expected to broaden the borders of freedom of media, as well as other individual freedoms.

Case Study 2) Improper government treatment of the media

Two recent cases have drawn attention to the damaging effects on press freedom of unaccountable government influence on newspapers by means of informal links with media owners.

On August 15 2007, one month after the Justice and Development Party was returned to power with a landslide victory in national elections, Emin Çölaşan of the mainstream daily *Hurriyet*, one of the most widely read and respected columnists in Turkey, was suddenly dismissed by his newspaper. His dismissal brought protests from all the major journalists’ organisations in the country, which consider it an important threat to freedom of expression. The newspaper gave no clear reason for sacking Mr Çölaşan, but he was widely seen as the strongest critic of the AKP in the mass media and many perceived his removal as a gesture of appeasement by *Hurriyet*’s owners to the AKP government.

The Association of Progressive Journalists (CGD) explicitly charged the government with meddling in the editorial affairs of a national newspaper. Its protest note said: -

“Firing leading government opponent writer Emin Çölaşan is a result of pressures from the AKP government on the Hurriyet daily. It is a punishment against journalists who do not support the prevailing power. The decision of the Hurriyet management is proof that the newspaper could not be and is not willing to be independent of the government.”

The Association also described the move as a warning to the decreasing number of other opposition journalists which would inevitably lead to self-censorship.

Another prominent *Hurriyet* columnist, Bekir Coskun, who had criticised Abdullah Gül’s appointment as President saying “He will not be my president”, was verbally attacked by the Prime Minister, Recep Tayyip Erdoğan. In a TV interview on August 20 the Prime Minister said, referring to Bekir Coskun’s remark, “Those who say such things should give up their Turkish citizenship.” This was the most recent example of Mr Erdoğan’s intolerance towards criticism of himself and his government. During his five years as Prime Minister Mr Erdoğan has several times taken legal action against journalists and cartoonists who criticised or lampooned him.

The opportunity for undue government interference and intimidation of journalists has sharply increased with the replacement of several traditional media owners with a new category of owners with major holdings in other sectors of the economy, such as banking, tourism, energy

and the automobile industry, which involve contracts or cooperation with government authorities. These media business owners have taken steps to eliminate the journalists union from the media titles that they own. As a result the unions have been very much weakened. The Turkish Journalists Union (TGS) was virtually excluded from mainstream media institutions except the state-owned Anatolia Agency (AA). In recent years thousands of journalists have lost their jobs. That new lack of job security represents a major obstacle to editorial independence and freedom of expression.

Recently the TGS Union succeeded in recruiting as members many journalists in the *Sabah* newspaper and the ATV television channel. But the managements reacted in the past three months by dismissing the journalists who led the unionising efforts, while other journalists were forced to give up their union membership. The lack of legal protection from trade unions and the extreme insecurity of their working environment are forcing Turkish journalists to choose between reporting in ways that please their employers, many of whom have close business connections with the government, and falling into the growing pool of unemployed journalists.

Since the start of 2007 there have also been several examples of physical assaults and threats against journalists. On June 26 this year a group of journalists who were following Prime Minister Recep Tayyip Erdogan by bus to a party rally in western Nigde province say they were stopped by members of the prime ministerial security staff who held a gun to the bus driver's head and stopped him from following the prime minister's vehicle. And at the May the first rally in Taksim Square in central Istanbul many journalists say they were physically mistreated by police even though it was plainly evident that they were members of the media.

Case Study 3) Radio, TV and Internet – a pattern of interference in media freedom

Control of the Turkish High Commission for Radio and Television (RTUK), the institution which regulates the nation's broadcasting, is highly politicised. The Commission's members are mostly elected by the parties in parliament, and the ruling AKP appoints the most members thanks to its domination of parliament. This year, on September 10th, the main news bulletin of the *Kanal-Turk* television channel, which is known for its anti-government stance, was banned for six days for allegedly showing bias against the Prime Minister and his AKP in its coverage of the election campaign. The CGD and other national journalists' organisations protested the decision, saying that it discriminated in favour of pro-government channels and against those which were critical of the AKP. The RTUK has also decided to penalise 13 television channels for breaking a ban on broadcasting images from the bomb site of the May 22 2007 bombing in Ankara.

On May 18 2007 the Istanbul radio station *Anadolunun Sesi* ("Anatolia's Voice") found that an earlier decision of RTUK to withdraw its broadcasting licence had been confirmed by an administrative court in Ankara. Earlier, on January 30th, RTUK had ordered the indefinite closure of the station, based on the temporary article 6 of Law 3984 on Radio and Television Foundation and Broadcasts. The station had first been closed for 30 days from October 17 2006 for playing a song by Ahmet Kaya, a Kurdish protest singer.

Government attempts to censor Internet sites represent another serious barrier to freedom of the media and of expression. A new law on Internet crimes was passed on May 4 2007 and was

approved by President Ahmet Necdet Sezer on May 22. It enables the Telecommunications Board to take action to prevent crimes against Atatürk, according to Law Number 5816. Leading organisations representing computer users and the industry protested against the law. But several Internet sites, including the media monitoring website **bianet.org**, as well as **alinteri.org** and **atilim.org**, were reportedly placed on police lists of “forbidden websites” which Internet café owners have had to adopt to avoid prosecution. Yusuf Andic of the All Internet Cafes Association says that district officials and police units are under orders to enforce them.

Some Turkish courts have also in some cases responded to allegations of cyber-crime by banning access to whole Internet sites, even when the complaint concerns only a small segment of the site in question. The video-sharing site YouTube was temporarily blocked in Turkey by court order over a video allegedly insulting Atatürk.

Conclusion and Future Action: Despite the diversity and vigour evident in the media, Turkish journalists face an array of significant obstacles to media freedom and independence. Greater solidarity is needed among Turkish journalists, especially to organise strong professional and trade union bodies which can effectively push for better conditions and defend the media against undue political and commercial influences. The AEJ Turkish Section has been actively seeking to strengthen the collective voice of Turkish journalists by forming an organisation called G-9 Platform (G stands for *gazeteci* or journalist, and 9 refers to the nine ethical-professional principles around which they have united). G-9 Platform has succeeded in bringing together 13 separate journalists’ organisations under the new umbrella group.

International support is also vitally important. On October 24 2007 the European Union formally expressed regret at the lack of progress to date in removing the offences of insulting Turkish identity or the country’s institutions from the criminal code. In the past such support has made a very big contribution to the struggle of Turkish journalists during decades of repression, prosecutions and often hostile government behaviour. And in recent years many improvements have accompanied Turkey’s policy of modernising and harmonising its laws and institutions to conform to those of the European Union.

But the level of international support still falls far short of what is needed in the face of the multiple threats and challenges outlined here. The hopes of many Turkish journalists are focused on the prospect of future guarantees of media freedom in legislation and in the promised new Constitution. European and other international media organisations, and others concerned with promoting civil rights, can give valuable help by continuing to point out injustices and to apply pressure to hold the Turkish authorities to their promises, in order to help journalists in Turkey to achieve fuller media freedom after a long and hard struggle.

UNITED KINGDOM



By Celia Hampton and William Horsley

Overview

Media freedom appears lively and strong in Britain three years after a notable setback in 2004, when the chairman and director-general of the BBC as well as a reporter were forced to resign after a confrontation over the reporting of flaws in a government dossier about supposed Weapons of Mass Destruction in Iraq and the death of a weapons expert, Dr David Kelly.

A sustained campaign by the BBC, other media organisations and the general public for the freedom of Alan Johnston, the TV and Radio journalist kidnapped and held for three months by a militant group in Gaza, contributed to the political pressure that finally led to his release in June 2007.

Public trust in broadcasting was thrown in doubt this year after both of Britain's leading TV broadcasters, the BBC and ITV, were caught up in scandals. It was revealed that several public phone-in programmes had been rigged, deceiving callers about their chances of winning prizes and in some cases taking money from callers under false pretences. But Britain's news media are still among the most questioning and investigative in Europe. They vigorously covered sensitive issues like the police "cash for honours" inquiry into the Labour and Conservative parties, which led to Tony Blair becoming the first serving prime minister in modern times to be questioned by police on a criminal matter but ended with the prosecutors' decision not to bring any criminal charges at all.

In June 2007, as Tony Blair stepped down as Prime Minister, he fiercely attacked the media's behaviour, saying that under the pressures of 24-hour news they acted "like a feral beast, just tearing people and reputations to bits". The Blair government itself is seen as having taken political "spin" to new levels of sophistication, led by scores of politically appointed government press officers. He openly courted powerful media figures like Rupert Murdoch in an effort to win allies in the popular media.

The Blair government has opened up the closed "lobby" system of briefings by the prime minister's spokesman, making them on the record and ending the old system of excluding all but accredited British parliamentary journalists. It also passed a Freedom of Information Act which has much improved the media's access to official information. The new Prime Minister, Gordon Brown, has promised further moves to official openness and public opinion supports the ending of Britain's traditions of government secrecy. That mood is reflected in the media, and these pressures have made the government give up plans to introduce new restrictions on the workings of the Freedom of Information Act .

The principle of media freedom has been bolstered by recent landmark rulings by the House of Lords, the UK's highest court. The first confirms that the law allows the media a defence against libel if they can show that they acted in the public interest. Another ruling protected a journalist against demands to disclose the source for information about hospital records.

However a British court ruled that the former spy and author David Shayler would be breaking the law if he disclosed more government secrets. And a journalist was given a 4-month sentence for tapping royal telephones.

Case Study: New EU rules will regulate Internet video material

There is unease among media watchdogs and journalists organisations over detailed plans drawn up by the European Commission, and now approved by member governments, for extending part of the regulations now covering television broadcasts to the expanding field of Internet video content through a new directive replacing the Television Without Frontiers Directive.

The new rules are contained in the Audiovisual Media Services (AVMS) directive which is due to be adopted before the end of this year and to be in force across the EU by the start of 2010. The UK is likely to be a testing-ground for the rules because it is moving fast towards “convergence“ between written, broadcast and online journalism and has a fast-growing market in online advertising. The AEJ’s British Second Vice-President Celia Hampton, a co-author of this Report, first registered concerns about the Commission’s plans in 2005, in response to an invitation for opinions from the media and other interested groups.

At present the Internet only has to obey the laws that apply to everyone but not the special constraints that apply only to TV. Websites can be prosecuted for disseminating child pornography or inciting crimes by others. Internet sites are also subject to other general laws, such as those on libel, contempt of court, copyright and misleading advertising.

The demand for some new form of regulation has arisen because popular video-based websites like YouTube are a fast-growing feature on the Internet. Newspapers, businesses and many private Internet users also post video material on their sites, often attracting large numbers of visits. Such sites are likely to have a commanding presence before long, both for popular entertainment and for factual coverage, competing for mass audiences with conventional TV broadcasters. This is what is known as “convergence“.

The new EU directive aims to extend a watered-down version of the standard TV regulations to what are called “emerging on-demand TV-like services.” That category is defined as sites whose main purpose is to offer a choice of video materials, if they take editorial responsibility for the catalogue of videos available for viewing, and if they do so to inform, educate or entertain the public.

These rules in effect call for self-regulation by the website providers concerned. Specifically, material that incites hatred will be forbidden, and material that might seriously harm young people’s development, such as violence and pornography, must be filtered so that it is easy to stop children seeing it. Much more extensive rules are provided for advertising. Codes of conduct will be encouraged, which are meant to be enforced by the providers themselves. Individual EU governments will have the duty to ensure that all Internet services in their territory obey the rules. This necessarily includes the power to order material to be removed from public view.

Conclusion and Future Action: This proposed regime of self-regulation is preferable to formal public regulation, but it still introduces controls where none exists at present. For this reason it needs justification under European human rights law, but none has been put forward. Systems of routine supervision will have to be set up, and once entrenched they could easily be used to censor other types of material.

Earlier drafts of the Audiovisual Media Services directive had threatened a much stricter application of broadcasting regulations to Internet sites. Those proposals were dropped after a lengthy period of consultation and debate. However during this process the European Commission has shown an instinct for regulation and a lack of clear understanding of the technical and practical effects of its proposals which cast doubt on its commitment to vital issues of media freedom.

The impact of the new law on the Internet, which has grown up as an unregulated medium and a free notice-board for disseminating information and opinions of all kinds, should be carefully monitored to prevent any erosion of basic freedom of expression.

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