

Working Session 1

Fundamental freedoms I, including: Freedom of Expression. free media and information

Warsaw, September 11, 2017

Only Freedom of Expression guarantees free media

The Annotated Agenda for this session rightly focuses on the need for protection of expression and media freedom, which is also "high on the agenda of the Austrian OSCE chairmanship". While this focus is commendable, reality is very different.

The past year has seen vast deterioration of the ability for free citizens to express their thoughts and beliefs, as evidenced by a steep rise in the prosecution and conviction of people with dissenting and critical opinions. Sadly, this is taking place west, and not - as often suggested - east of Vienna.

One case in point involves the recent conviction of the German journalist Michael Stürzenberger. He was sentenced to a suspended jail sentence of six months. His crime? He uploaded on social media a historical photo of the Grand Mufti of Jerusalem shaking hands with a high-ranked National Socialist. He was accused of disseminating propaganda and inciting hatred against Islam, when in truth he was depicting the fact that high representatives of Islam collaborated with Nazi Germany.

What makes this case egregious is the fact that German law¹ specifically permits the

¹ 86 (3) StGB obsolet, in dem es ausdrücklich heißt:

(3) Absatz 1 gilt nicht, wenn das Propagandamittel oder die Handlung der staatsbürgerlichen Aufklärung, der Abwehr verfassungswidriger Bestrebungen, der Kunst oder der Wissenschaft, der Forschung oder der Lehre, der Berichterstattung über Vorgänge des Zeitgeschehens oder der Geschichte oder ähnlichen Zwecken dient.

Damit ist jede historische Veröffentlichung über die NS-Zeit gesetzlich geschützt. Zudem wird durch diese Anklage

use of historical photos when reporting on historical events. Furthermore, it should be obvious that true freedom of expression allows for the opinion calling Islam a "fascist ideology". It should most certainly not be called slander.²

Sadly, we have reached a point where those who champion unfettered speech as a fundamental value of our civilization can be and are accused of "extremism", leading to suspended jail sentences.³

Even more sadly, our communities appear to have lost confidence in values and convictions to tolerate dissenting views. Freedom of expression should protect the unpopular individual as well as the "tyranny of the majority", who would transform and are already transforming conventional beliefs into ironclad ideologies. As a result, people with different opinions are considered evil and should be banished from a polite society, have their careers ruined.

One case in point is the well-known German author of Turkish descent Akif Pirincci who is being taken to court for "hate speech".⁴ He gave a speech during a Pegida rally in Dresden. His crime? Pirincci is famous for his special writing style, which one may like or dislike. However, he must now defend himself against charges of incitement to hatred against Muslims living in Germany and Muslim refugees as well as disturbing the public peace. His books have since been pulled off the shelves by his publisher.

The only measure to deal with so-called hatred is more free speech. Either there is free speech or it isn't free speech at all. One of the biggest misinterpretations made about free speech is that it somehow "empowers hate", an argument used to restrict speech by politicians and NGOs and civil society groups and to give them power to decide what we can or cannot say. However, facts can never be hate speech or hatred,

auch die in Art. 5 des Grundgesetzes gewährte Meinungs-, Informations- und Pressefreiheit angegriffen.

² <http://www.pi-news.net/eilt-sechs-monate-haft-fuer-pi-news-autor-michael-stuerzenberger/>

³ <http://www.pi-news.net/das-skandal-urteil-von-muenchen-ist-ein-rechtsbruch/>

⁴ <http://www.berliner-zeitung.de/politik/strafbefehl-nicht-akzeptiert-akif-pirincci-muss-wegen-hassrede-bei-pegida-vor-gericht-28259066>

for when they are, we are not talking about free expression at all. We're talking about brazen disinformation.

As free persons, we should be thinking for ourselves, which means questioning dominant ideas even if they do not conform to fashionable ideas. This includes arguments for positions that others revile and want to stigmatize and against positions others seek to immunize from critical scrutiny. Nowadays, what constitutes freedom of expression in participating States, especially in those east of Vienna, is "licensed speech", where people are permitted to speak so long as they stay within decreed parameters of acceptable thought. If any one idea is made "verboten", freedom of expression no longer exists.

Open-mindedness, critical thinking and debate are essential to the discovery of truth. In addition, they are the best antidotes to bigotry. Calling the truth "hate speech" or "hatred" does not prevent bigotry. Let us not be tyrannized by public opinion.

Bürgerbewegung Pax Europa thus recommends:

- That participating States and the OSCE return to true and unrestricted freedom of expression and reestablish a marketplace of ideas rather than permitting "licensed speech".
- That participating States, especially those west of Vienna, cease prosecuting individuals with dissenting views.

BPE calls on the Representative on Freedom on Media to ensure that the truth cannot constitute "hate speech".