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United States Mission to the OSCE
Response to the Report of OSCE
Representative on Freedom of the Media
Dunja Mijatovic

As delivered by Ambassador Ian Kelly
to the Permanent Council, Vienna
June 13, 2013

The United States warmly welcomes OSCE Special Representative on Freedom of the Media Dunja Mijatovic to the Permanent Council and thanks her for her latest report.

Representative Mijatovic, we see your work, and that of your dedicated staff, as particularly important when an increasing number of OSCE participating States—as your report demonstrates—are falling short of their commitments to protect freedom of expression by the media and to ensure the safety of journalists. We make no claims to perfection in this area ourselves, and we appreciate your contributions to our ongoing public debate over how best to minimize government intrusion in our open media environment while taking all necessary steps to safeguard national security. As you are aware, President Obama has publicly called for passage by the Congress of a shield law to protect journalists engaged in activity protected by the first amendment to our Constitution.

Of significant concern to us is a recent spate of statements and actions by participating States that run counter to OSCE commitments and other international commitments to protect and foster freedom of expression, including by members of the media, and through use of information and communications technologies. The Russian Federation has repeatedly called for a review of the RFoM mandate in an effort to limit the OSCE's authority to address internet freedom issues. As one of 51 participating States supporting the Declaration on Fundamental Freedoms in the Digital Age (FFIDA), we believe this reflects an unfounded and unrealistic view of the marketplace of ideas that comprises today's global media and technology environment. Several OSCE participating States also engage in blocking Internet sites thought to contain controversial material on current political affairs.

The Internet and social media should be welcomed for their role in empowering citizens to participate actively in democratic development and for fostering public debate and government accountability—basic principles of the Helsinki Final Act. And we assure you, Representative Mijatovic, there will be no consensus for any proposal that would prevent or hinder your office from monitoring developments in the OSCE region regarding the exercise of freedom of expression through the medium of the Internet or other new information and communications technologies.

Over the six months since your previous report, we have been impressed by your efforts to defend and open up space for freedom of expression by the media in some of the OSCE's most closed media environments. We were heartened by your recent visit to Belarus and your participation in a training seminar in Minsk. We hope this portends expanded

cooperation between your office and Belarus and some amelioration of that nation's poor record on freedom of expression. We are pleased that you were afforded the opportunity to express your concerns about the persecution of independent journalists, including those who work online, and the need for liberalization of media regulations—concerns we certainly share—to senior government officials. We echo your appeal for Belarus to end detentions of journalists and social media activists covering public events. We further call upon the Belarusian government to cease subjecting independent journalists and Internet reporters to official harassment for their coverage of events in Belarus, including public protests.

We are also cautiously optimistic about your cooperation with the government of Turkmenistan in drafting its new media law. While we believe this law leans too heavily toward codification of intrusive government regulation of the media, it nonetheless represents a limited positive development for the country. As you noted, a similar new law was promulgated by the government of Tajikistan. We call upon the Turkmen and Tajik governments to continue working with Representative Mijatovic in developing the legal instruments necessary to implement provisions of the new media laws that would liberalize the media environment in their countries and move them toward fulfillment of their OSCE commitments.

Representative Mijatovic, the United States shares the concerns you have expressed about distinctly negative trends in some other participating States regarding freedom of expression by the media. Azerbaijan has taken several regrettable actions in this area during 2013, including jailing journalists critical of the government; using excessive force against reporters covering a January 12 public protest; and culminating in the recent adoption of legislation criminalizing defamation over the Internet, prompting your joint press release with the Council of Europe. We are also dismayed at the recent renewal of a smear campaign against journalist Khadija Ismayilova. We urge the government of Azerbaijan to abide by its OSCE commitments, cease imprisoning journalists, thoroughly investigate instances of violence against or intimidation of journalists related to their work, and prosecute those responsible.

We reiterate our concern about the issue of persistent impunity for violent attacks against journalists in the Russian Federation and Ukraine. We noted in your report the convictions of the killers of Russian television reporter Kazbek Gekkiyev in the southern republic of Kabardino-Balkaria and of Georgyi Gongadze, the founder of the website *Ukrainska Pravda*. However, several other cases of serious violence against journalists in these two countries remain unsolved. The United States is disappointed that Russia was unwilling to address the important topic of protecting the safety of journalists at last month's Human Dimension Seminar on Media Freedom Legal Frameworks in Warsaw. We also share your concern over the inspections of NGOs by authorities in the Russian Federation.

The treatment of journalists with dissenting or differing views in Turkey remains a serious concern. Arrests of journalists under anti-terrorism and other laws, lengthy pre-trial detentions, and severe punishments for those convicted are worrisome. We are also troubled by incidents of violence against journalists, and the firing of journalists for writing articles critical of government policies or officials. Under threat of prison, violent attack, or unemployment, we understand journalists and Turkish media outlets have resorted to self-censorship. Such self-censorship was evident when Turkish media refrained from reporting on the May 31 protests at Taksim Square when there were independent reports of numerous incidents of violence by police against demonstrators. Fines levied by Turkey's media watchdog against several media outlets that did broadcast coverage of the Gezi park protests

exacerbate this problem. We are hopeful that cooperation between your office and Turkish officials, and efforts by the Turkish government to reform its laws and practices, will contribute to improvements in the realm of free media in Turkey in the near future.

The frequency of libel cases, the sweeping application of vague charges of “inciting social discord,” and the misuse of licensing laws against media critical of the government are major problems in Kazakhstan. We regret that judicial actions against journalists, including exorbitant fines for libel, contributed to a media environment characterized by widespread self-censorship. Draft amendments to the criminal code that in their present form could further restrict freedom of expression are another unwelcome development. Representative Mijatovic, we fully support your call for decriminalization of defamation in all OSCE participating States and reform of civil defamation statutes to prevent lawsuits from being used as a personal or political weapon against journalists.

The United States has been concerned about the media freedom situation in Hungary since the government’s approval of a new media law in 2010 which could undermine media independence. In December 2011, Hungary’s Constitutional Court ruled several provisions of this law unconstitutional. This led to a revision of certain provisions, but many of our concerns remain unaddressed. The process for electing members to the Media Council does not ensure the independence of this powerful media regulatory body; politicization of the public media remains a concern; and uncertainty about the regulatory environment can promote self-censorship. We urge the Hungarian government to establish closer contact with your office and to further revise the media laws to encourage media freedom and pluralism in that country.

We wish also to echo your May 2 statement of concern over members of the judiciary seeking high damage awards in lawsuits against the media in Slovakia. We direct you to our separate statement on the issue that we are delivering today.

In Macedonia, we are concerned by a draft media law, which was apparently prepared by the Ministry of Transportation and Communications without consultation with journalists or civil society. Preliminary analyses of the draft indicate that, in its sweeping breadth, the law carries the potential for imposing even greater government censorship over privately owned media, threatening Macedonia’s few remaining independent media voices. We also second your press statement criticizing the detention of Skopje journalist Tomislav Kezarovski for a 2008 article as excessive and another unfortunate signal about freedom of expression by the media in Macedonia. We encourage Macedonia to cooperate with your office to improve this situation as the country moves toward eventual membership in the European Union.

Representative Mijatovic, I wish to re-emphasize how important we consider your work to be in holding all of us, including the United States, to account with regard to their commitments to human rights and fundamental freedoms, including freedom of expression by the media. This includes protecting the safety of journalists. The United States would like to see an OSCE decision this year consolidating and strengthening our commitments to protect journalists, whose work is bringing them ever more into the line of fire, both metaphorically and literally. The service they provide to our societies in promoting institutional accountability and provoking public debate is one without which no democracy worthy of the name can long survive. We look forward to continuing our cooperation with your office on all freedom of expression issues.

Thank you, Mr. Chairman.