



Organization for Security and Co-operation in Europe

The Representative on Freedom of the Media

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Regular Report to the Permanent Council

For the period from 4 December 2020 to 13 May 2021

INTRODUCTION

Madam Chairperson,
Excellencies,
Ladies and Gentlemen,

Less than six months after having been appointed as OSCE Representative on Freedom of the Media, I have the honour to present my first report to the Permanent Council, covering the period from December 2020 until today.

At the outset, I would like to acknowledge the work of my predecessors who, each in their own way, worked hard to safeguard freedom of media in the OSCE region. I intend to build on their achievements, and strive to fulfil my mandate with transparency and efficacy.

I would particularly like to pay tribute to Freimut Duve, who served as the first OSCE Representative on Freedom of the Media from 1998 to 2003 and who sadly passed away last year. His ambitious idea led to the establishment of a Representative on Freedom of the Media, whose role he built from the ground up and made into a staunch advocate of freedom of expression. Freimut Duve was a true humanitarian and a champion of media freedom. Today more than ever, we should remember his words: “There is no freedom without media freedom!”

I am very happy that I have been able to meet with almost all of you during these past months. I would like to thank you for the very constructive and candid initial exchanges on media freedom in your respective states and throughout the OSCE region. I look forward to meeting the few representatives whom I was not able to meet so far and I intend to continue this dialogue on a regular basis with all OSCE participating States, at various levels.

I look forward to direct, open and productive contacts and to working in close partnership with all of you, as well as with the relevant authorities in your countries. I strongly believe that tackling challenges and threats, as well as building on the opportunities for freedom of expression and media freedom, will need a broad and inclusive multi-stakeholder approach. I also very much believe in the virtues of diplomacy: a sustained, focused and tailored engagement with participating States that allows for better mutual understanding, bridging differences and incremental, concrete progress. In less than six months, I had over 60 meetings with delegations, mostly followed by news items mentioning specific challenges; I sent 58 letters; I published over 80 Tweets and 5 Press releases. In total, I addressed 87 cases where media freedom issues or journalists’ rights were at stake. In many instances, I have already received a reply from you, for which I thank you again, while in other cases I am still waiting for a meaningful reaction from the participating States concerned.

PC Decision 193, adopted on 5 November 1997, stipulates that the Representative on Freedom of the Media “will assist the participating States, in a spirit of co-operation, in their continuing commitment to the furthering of free, independent and pluralistic media.” This is indeed my first duty: I am here to support you and to provide expertise in “strengthening the implementation of the OSCE principles and commitments that all participating States have undertaken.”

In keeping with the Helsinki spirit, I wish to take an effective, inclusive, collaborative and strategic approach to my work. In practice, this means that I will place individual cases within the larger trends that characterize challenges to freedom of the media in the OSCE region and that I will, in close co-operation with participating States, endeavour to find the best ways to address these challenges. The media landscape is more dynamic than ever, my approach requires constant evaluation and assessment in order to provide the best suitable responses to the evolving challenges.

I am fully aware that my institution contributes to the overall goal of comprehensive security as part of a bigger organization. I therefore seek close co-operation with the Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities, as well as with all OSCE executive structures, OSCE field presences and the OSCE Parliamentary Assembly (OSCE PA), which has an important role considering that many issues affecting media freedom contain constitutional and legislative components. Members of the OSCE PA can therefore bring such issues directly to the attention of their national assemblies and of their constituencies.

In line with the mandate, I have continued, and will continue, to reinforce regular contacts with relevant international organizations, in order to enhance co-ordination and avoid duplication. Due to the global scale of today’s challenges in the media field, such co-operation is increasingly needed.

This also applies to prominent journalists and civil society organizations, not only because they are an important source of information – valuable to my work – but also to ensure their contribution in addressing challenges and opportunities that require a concerted multi-stakeholder, engagement.

I very much believe in an integrated approach, looking into cases in a horizontal and analytical manner, to present findings and recommendations to tackle systemic and systematic problems or emerging trends early on. By addressing problems in a timely manner, we can assess the facts, provide targeted support, and try to contribute to the resolution of issues before they escalate. Integrated also, in the sense that all efforts I make – be it through meetings, letters, seminars, conferences, special reports, resource guides, communiqués, public outreach and all other activities – support the implementation of the mandate. Where and when needed, I will advocate that constitutional guarantees and the rule of law protect the fundamental freedom of expression and media freedom.

Taken together, these activities must form the most conducive and comprehensive response to the problems we are facing when it comes to media freedom in our region.

This includes, of course, an honest and open response to individual cases of serious non-compliance with OSCE principles and commitments on freedom of expression and free media. Public interventions are, and will continue to be necessary. However, while I will continue to speak out publicly through tweets and press releases – in particular on cases of attacks on journalists or other imminent danger for the media freedom environment – and in blogs and interviews, I recognize that other issues will require a more strategic and long-term approach, including means of silent diplomacy and sustained dialogue.

A SHRINKING SPACE FOR MEDIA FREEDOM AND A DECLINING SAFETY OF JOURNALISTS IN THE OSCE REGION

PC DECISION No. 193 of 5 November 1997 asserts that “Freedom of expression is a fundamental and internationally recognized human right and a basic component of democracy. Free, independent and pluralistic media are essential to safe and secure societies and accountable systems of government”.

All participating States have adhered to these fundamental principles when establishing the Representative’s mandate. As Representative on Freedom of the Media, I believe it is not my task to rate, or hand out grades to your authorities on the media freedom situation in your respective countries. I rather feel that it is my job to paint a picture based on individual cases and on some of the trends I witness in parts of, or across, the OSCE region.

Unfortunately, during the past months, I observed a worrying number of old and new developments – often interrelated and interconnected – that negatively affect freedom of the media and its essential function in our societies, and continue to do so:

- Growing distrust and anti-media sentiment – a development sparked by several factors, including by populist politicians and authorities who want to sow doubt in order to cover up their anti-democratic tendencies and deeds;
- Physical attacks;
- Increasing danger for journalists when reporting on public gatherings;
- Legal harassment and weakening of the rule of law;
- Restrictions to the free flow of information, regardless of frontiers;
- Declining online safety – especially with regard to women journalists;
- Increasing challenges in the online sphere – including disinformation and the impact of artificial intelligence, to which I want to add specifically the issue of the debate around governance of online social media platforms.

I would like to add to this that the ongoing health crisis has acted as an amplifier to many trends that were already developing or existed in some states, with a tendency to control the flow of information and to silence unwelcome voices, and a further decline in the (economic) sustainability of free, independent media. When taken together, these challenges paint a larger picture that clearly shows a shrinking space for media freedom and declining safety of journalists in the OSCE region. These challenges have shaped, and will continue to shape, my agenda and priorities.

Overall, the safety of journalists will remain on top of my agenda – and by safety I mean a broad concept that includes physical, economic, psychological and technological safety and very importantly, full respect for the rule of law.

I continue to keep a particularly close eye on the legal environment for media in all participating States. Our laws need to be in line with international standards on freedom of expression, in order:

- To provide journalists with a safe working environment;
- To ensure that they have unhindered access to information;
- And to guarantee that a free and pluralistic media can fulfil their key role in our societies.

This also includes a continued focus on the decriminalization of defamation and on the growing practice of legal harassment of journalists.

Situation in Belarus

When discussing the shrinking space for media freedom, I would like to draw your attention in particular to the situation in Belarus, where we have seen a rapid deterioration of the situation for media and journalists.

In the aftermath of the presidential election in August 2020, over 350 media workers have reportedly been apprehended and, in some instances, suffered injuries after being attacked by law enforcement representatives while fulfilling their professional duties and covering protests in Minsk and other parts of the country. I am especially worried that several journalists and media NGO representatives have been imprisoned or are still kept under arrest on grave criminal charges.

During the protests, there were many reports indicating mobile and broadband internet outages, as well as instances of restricted access to various online platforms and news media websites, including on the grounds that they "negatively characterize the situation in Belarus" or "endanger the national security". There were also instances when the authorities stripped journalists working for various foreign news organizations of their accreditation, thus barring

them from doing their professional work. There were cases of denial of entry or deportation of several foreign reporters.

In general, I am alarmed by recent amendments to the accreditation rules and procedures of the Ministry of Foreign Affairs for foreign journalists, to the laws on Mass media, on Countering extremism and on Public events, as well as to the new Criminal Code, which further aggravate an already dire situation of media freedom. My Office has shared a legal review on the accreditation of foreign journalists with the Belarusian authorities and is currently looking into other ones. In recent months, the authorities have also intensified the designation of various social media channels and group chats as "extremist". The distribution of materials from such resources now entails various penalties and there are already examples of penalties, including when applied to media outlets.

On a number of occasions, I expressed to the authorities my readiness to provide assistance in addressing the problematic matters and improving media freedom and the safety of journalists in Belarus. In addition to my communications with the authorities, I am also in touch with national professional media organizations and journalists. I recently met online with representatives of the Belarusian Association of Journalists (BAJ) and editors of several independent media outlets; and I am in contact with other associations as well.

Unfortunately, my attempts to establish direct contact with the Minister of Foreign Affairs have been unsuccessful so far, and I use today's report to call upon the authorities in Belarus to review all the cases of journalists behind bars within a reasonable time and release them.

Growing distrust and anti-media sentiment

One of the most negative ongoing developments I have witnessed, one that is truly worrisome and knows no borders, is the growing anti-media sentiment, the large distrust towards journalists and media outlets, in society as a whole. Accusing media outlets and individual journalists of publishing "fake" and biased news has become second nature for some authorities and other vocal groups in society. In recent times, it is not only the powerful, the ones that have their reasons to want truths to remain uncovered, but also the larger public that attacks and abuses media workers.

This worrisome trend seems to stem from, and underlie at the same time, many other developments that both negatively affect media freedom and the safety of our journalists. It leads to an atmosphere in which aggression towards media seems to become a new normal and in which it seems almost logical to hamper media freedom, pluralism and sustainability. It forms a terrible double-edged sword, often initiated, encouraged and legitimized by the same authorities that use it as a pretext to clamp down on media freedom even further. During the past year, the COVID-19 health crisis has certainly contributed to this trend. The

pandemic has fed polarization, gender-based attacks, inequalities and mistrust, which in turn makes our security environment more unstable and unpredictable.

It is for this reason that the OSCE Chairperson-in-Office and I decided to organize a hybrid conference on “Increasing Public Trust in Free Media through the Implementation of OSCE Commitments”, to be held in Stockholm on 18 and 19 May.

Physical attacks

In this grim climate – which is felt throughout the OSCE region, even in countries with traditionally solid conditions for media freedom – journalism is becoming an ever more dangerous profession. Recognizing this, last autumn my Office published a third edition of the Safety of Journalists Guidebook and the SOFJO Resource Guide.

Since taking up office six months ago, I was shocked twice by the killing of a journalist. Giorgos Karaivaz was brutally shot dead in broad daylight on 9 April this year, on his way home from work. The Greek authorities have already launched an expedited investigation, upon express orders by the Prime Minister. The killing of radio presenter Hazım Özsü in Turkey on 9 March this year is no less heinous. It is good to hear that the perpetrator was promptly arrested. I hope that the launched investigation will shed light on all aspects of the murder and that those responsible will be duly prosecuted. These horrible attacks come in a series of murders in our region, with Daphne Caruana Galizia being killed in 2017, Ján Kuciak in 2018 and Lyra McKee and Vadim Komarov in 2019.

These journalists paid the highest price for doing their work. Others are unfortunately also frequently and on a large scale, confronted with violence and harassment. In total, I reacted to incidents of physical attacks in nine countries – Armenia, Bosnia and Herzegovina, Belarus, Greece, Montenegro, The Netherlands, The Russian Federation, Tajikistan and Turkey – through seven tweets and direct correspondence with the concerned participating States.

Increasing danger for journalists when reporting on public gatherings

During the past months, many journalists were harassed and abused while reporting on public events, an issue my Office addressed in a revised special report that was published in October 2020. This report showed a clear trend, one that we are still witnessing today: journalists have to face violence and arbitrary arrest by police officers, while at the same time experiencing violent attacks from demonstrators and bystanders. Some journalists saw their equipment destroyed, while others suffered serious injuries. Unfortunately, this development can be seen across the OSCE region, from West to East, although, of course, there are notable differences in the dynamic and the level of involvement by the authorities in these instances of harassment and violence. The required response consequently has to differ depending on

the overall safety environment and the state of the rule of law in a certain country. In the reporting period, I have observed a particularly high number of such violations in the Russian Federation when various journalists faced deliberate abuses primarily during public gatherings in support of politician Alexei Navalny.

On incidents of abuse, harassment and violence against media workers reporting on public gatherings, I have addressed 22 cases, through direct communication and four tweets regarding Bulgaria, France, Greece, Italy, Kazakhstan, Kyrgyzstan, Montenegro, Poland, The Russian Federation, The United Kingdom, The United States and Turkey.

Legal harassment and weakening of the rule of law

Arresting media workers – when reporting on public events, but also in many other instances – is still used as a means to stop them from doing their work. Two-and-a-half years ago, all participating States in the Ministerial Council Decision on Safety of Journalists condemned the use of arrests to suppress their work and/or unduly force closure of their offices, and urged for the immediate and unconditional release of all journalists who have been arbitrarily arrested or detained. Today, an alarmingly high number of media workers in the OSCE region still spend time behind bars for doing their work.

In addition to the risk of arbitrary detention, media face growing abuse of other legal procedures to quash any critical, dissident, or independent voices. The attempts to limit media pluralism are both simple and sophisticated, ranging from rationalisations for taxation aiming to curb independent media, or social media laws to stifle online speech to criminal procedures for alleged extremism and defamation, or numerous strategic lawsuits (so-called SLAPPs) by companies and public figures to drown media in legal proceedings. In the past few months, I witnessed instances in several OSCE participating States where legal means were employed to hinder media, or where new regulations and legal provisions came into being that (could) negatively affect freedom of expression and media freedom.

Recognizing the worrisome use of legal means to obstruct or stop media in the OSCE region, my Office is currently drafting a special report on judicial abuse and legal harassment.

I drew attention to such negative developments through nine tweets and direct correspondence with Armenia, Azerbaijan, Belarus, Croatia, The Czech Republic, France, Georgia, Hungary, Italy, Kyrgyzstan, Malta, Portugal, Poland, The Russian Federation, Slovenia, Tajikistan, Turkey, Ukraine, The United Kingdom and Uzbekistan. I remain concerned by the high number of journalists in detention and arrest in Turkey. I will keep all cases under close review and will continue to advocate for their release.

As part of assisting participating States, my Office regularly contributes to reviews of legal developments. In March this year, we contributed to the legal opinion on the draft

constitution of Kyrgyzstan (ODIHR, Venice Commission). I would like to use this opportunity to reiterate the invitation to all participating States to make use of the services of my Office in this regard.

Restrictions to the free flow of information, regardless of frontiers

In an atmosphere of anti-media sentiment and distrust, people are increasingly caught in their own information bubble. After decades of increasing access to information through the development of new information technologies, the reappearance of political walls and "red lines" have led to an ever more inward-looking approach of the authorities regarding sources and flows of information.

This can also be witnessed in those instances where journalists who come from, or have (financial) ties to parties in, another participating State are being hindered in doing their work: through travel restrictions, administrative sanctions, outright bans, legislation on so-called "foreign agents", and other measures. I have addressed this specific issue in my recent communique on the freedom of the press to work freely in the OSCE region regardless of frontiers.

These obstructions have a notable impact, especially when taking into account the fact that in Helsinki in 1975 all participating States considered international exchange of information highly important for strengthening trust and co-operation within the region. Today it results in restricted access to media and information which appears as "foreign", "unwanted", "unfriendly", "non-patriotic" or simply too critical or different from official narratives. This is in stark opposition with the longstanding OSCE principles and commitments.

Of course, different cases have different backgrounds and dynamics, with the temporary suspension of TV channels in Latvia having another nature than the labelling of media as "foreign agents" – including the recent further expansion of accompanying prohibitive monetary penalties for disobedience to restrictive requirements and bans to distribute information – in the Russian Federation. The most recent sanctions against TV channels in Ukraine are yet another approach that results in media workers losing their jobs and in audiences losing access to a set of programmes. All these restrictive measures have one thing in common, however: they have the same detrimental effect on the free flow of information, on media pluralism and on the co-operation and relations between nations.

In line with my wish to maintain continued dialogue with all participating States, I remain in contact with the respective authorities to find constructive solutions. I drew attention to such incidents through direct correspondence with Latvia, Poland, The Russian Federation and Ukraine.

Declining online safety – especially with regard to women journalists

Even in their own home, media workers are not safe. Unfortunately, anti-media sentiment and distrust towards media workers has long ago infected the online sphere, where many journalists face daily abuse and threats. Rampant examples of verbal abuse and violence against the media can be witnessed on online platforms in an unparalleled manner.

I drew attention to such incidents in four countries, through one tweet concerning online harassment of a Turkish Cypriot journalist and through correspondence with Germany, Poland and Uzbekistan. On 9 March this year, we co-organized and co-hosted with UNHCR, ODIHR and the OSCE Secretariat a Webinar on “Intolerance & Discrimination on Social Media” in order to address this worrying trend.

Women journalists in particular continue to be affected by this problem. Since the beginning of 2021, my Office participated in 12 events and activities related to the Safety of Female Journalists Online (SOFJO), organized both by the OSCE and by partner organizations, including: the Supplementary Human Dimension Meeting (SHDM) I on Media Freedom and Gender Equality (Vienna/online), co-organized with the Swedish Chairpersonship and ODIHR; the virtual round table organized by the OSCE Mission to Bosnia and Herzegovina on the harassment of women in the public sphere; and the European Media Forum on Safety of Journalists organized by the European Commission.

In the past months, my Office published a Serbian language and a Russian language version of our #SOFJO Resource Guide. The Resource Guide has been included as reference material for training and educational programmes, including by ARTICLE 19 in Kyrgyzstan, by OHCHR Asia and UNESCO for an online course in the context of strengthening the capacity of regional actors in the Asia-Pacific Region; and in a joint UNESCO-Oxford MOOC on International Standards on Freedom of Expression.

My Office will come back with some additional guidance in the near future, to help you and other stakeholders, to take the necessary steps to safeguard women journalists online.

Increasing challenges in the online sphere

According to a recent report of the organizations *We Are Social* and *Hootsuite*, compared to 2020, the number of users of social media increased by more than 13% to 4.2 billion in early 2021. It attributes this rise mainly to the COVID-19 pandemic: many people connected to the internet for the first time, while existing users embraced new digital tools. This clearly shows the importance of looking seriously to the challenges and opportunities for freedom of expression and media freedom in an increasingly digital landscape.

In one of my first tweets as Representative, I underlined the importance I attach to the debate on governance and the role that social media platforms play in the freedom of

expression. I also wrote that my office has been engaged in this discussion. And it will continue to do so.

Two subthemes regarding increasing online challenges my Office is currently exploring:

- The spread of disinformation

Disinformation, understood as verifiably false or misleading information that is created, presented and disseminated for economic and/or political gain or to intentionally deceive the public, may cause public harm. The European Parliament defines that such public harm includes threats to democratic processes as well as to public goods such as citizens' health, environment or security. Disinformation and propaganda also cause public harm to media freedom:

- By undermining public trust in the media through claims that there is no truth in the media;
- By breaking with the professional standards of journalism through false information and media-like entities designed to spread it;
- Through interference with the public's right to know and the right of individuals to seek, receive, and to impart information and ideas of all kinds, regardless of frontiers, protected under international legal guarantees of the rights to freedom of expression and to hold opinions.

Some forms of disinformation and propaganda may incite to violence, discrimination or hostility against identifiable groups in society, often with the aim of undermining cohesion of societies.

During the remainder of this year, I will place an increased focus on the threats of harmful disinformation. Tomorrow, I will start our work with the first in a series of expert meetings that will discuss those issues relevant to my Mandate. These meetings will take stock of existing challenges and good practice, and allow me to issue specific recommendations to relevant stakeholders.

- Social media and the impact of artificial Intelligence

In one of my first tweets as Representative, I underlined the importance I attach to the debate on the role that social media platforms play in the freedom of expression. I also wrote that my Office has been engaged in this discussion, a discussion that takes place at different levels within different subthemes.

This includes my Office's #SAIFE project, which continued to put a spotlight on the use of Artificial Intelligence (AI) in the realm of freedom of expression – as AI and other forms of automation increasingly shape and arbitrate information online, profoundly affecting how people access and share information. AI-enabled tools curate and disseminate online content, often deployed by dominant private actors as part of highly complex and opaque systems,

with little or no oversight. Thereby, AI significantly shapes the realization and future of freedom of expression and media pluralism.

In autumn 2020, my Office published a call for proposals of innovative ideas and initiatives to tackle the challenges brought on by AI. The nine local and international initiatives selected are presented on the #SAIFE website, and through informational events, in order to facilitate dialogue with the OSCE participating States and the broader public. Following collaboration with a digital storytelling expert, my Office will soon present an interactive tool to increase understanding of the challenges of AI to freedom of expression, privacy and democratic debate. Bringing together independent expertise and perspectives from across the OSCE region, my Office set up four expert working groups on the impact of AI on freedom of expression, each dedicated to a specific thematic area. The first two took place at the beginning of April and focused on AI in content moderation, particularly security threats and hate speech, and the first outcomes will soon be published. The second two workshops are planned for June/July and will focus on AI in content curation, in particular media pluralism and the associated surveillance. A guidance will be developed in the course of 2021, and OSCE participating States will be informed and consulted throughout the process.

Planned activities

In line with my mandate, I will continue to assist the participating States, and contribute to the resolution of issues regarding freedom of expression and free media.

We will continue organizing conferences and other regional dialogue events aimed at promoting free and pluralistic media and access to information in Central Asia, South Caucasus, and South East Europe. The Third Central Asia Judicial Dialogue will take place on 24-25 June 2021, online. I will work closely with the States involved and, where possible, with OSCE field operations, journalists and civil society, to identify topics and explore formats with which we will be able to achieve concrete added value.

We are also planning to continue with a new phase of the Cyprus Media Dialogue, where, last November, we completed the second exchange opportunity for journalists from both communities.

CONCLUSION

I see a bleak picture when looking at media freedom in the OSCE region. The gross violations of free speech and journalists' rights seen in the past six months are indeed worrisome, to start with, the fact that two journalists recently were killed in our region. In addition, we have seen blatant infringements on media freedom in a number of countries, most notably in

Belarus, where a large number of journalists were detained and physically attacked and where new regulations are introduced that violate the freedom of expression.

But I see more. Albeit not as shocking, the many smaller developments that negatively affect media freedom and journalists' rights equally worry me – as these violations creep in slowly, and taken together form a systemic approach that silences critical voices and dismantles media pluralism.

This report mentions some of the developments I have witnessed, including the growing distrust towards journalists and anti-media sentiment, increasing abuse of journalists offline and online (especially women media workers), the use of legal means and detention to hinder and harass journalists and a gradual restricting of the free flow of information. I also mentioned the challenges that the growing importance of the online sphere poses to us, including the issue of disinformation and the increasing use of artificial intelligence.

Although when considered separately such issues perhaps might not appear as shocking as some of the more blatant examples of infringement on media freedom, when seen in their overall coherence, such developments can and will lead to a gradual, but certain decay of a freedom we all hold, and should hold, dear.

I am dedicated to the grand idea of the mandate. I highly value the diplomatic merit of cooperation with representatives and authorities of all participating States. I have a great deal of optimism, for I am convinced that we share the common idea that media freedom is of the utmost importance to our societies. That we all stand united in our determination to improve and learn from each other, in a concerted push to advance media freedom, including by promising initiatives like the recently adopted UK National Action Plan for the Safety of Journalists. In other words, I look forward to reporting to you in six months from now, perhaps mentioning some positive developments.