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DELEGATION OF THE REPUBLIC OF ARMENIA
ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

Statement
in response to the Report
by the OSCE Representative on Freedom of the Media Miklós Haraszti
delivered by Ambassador Jivan Tabibian
at the 593rd Meeting of the OSCE Permanent Council
February 16, 2006

Mr. Chairman,

We usually do not wait to be the last to speak but we were hoping that many points would be covered and then we would not have to do this, and leave more complex issues to this afternoon for the informal gathering and discussion on the cartoons' controversies. We thank our Representative on Freedom of the Media for this Report. Of course, we read and listened very carefully.

We must admit that we do not envy him at this moment, because his situation is not enviable. On one hand, the Representative is entrusted with very narrowly, perhaps unrealistically narrowly defined responsibility: Freedom of the Media. We should look into why we choose to make such a narrow definition of what he had to deal with.

The Representative is caught in a dilemma, in a very awkward situation. He cannot say absolutely anything that can imply subordinating that freedom to any other consideration. The Representative can only recommend responsibility. On the other hand, he cannot leave undone, unsaid, concerns about reactions to that freedom. Yet, we have to deal with the dynamics between these two notions of freedom and responsibility. For the moment, therefore, we will limit our comments to the media side of the issue.

Why this is an awkward situation? We should all realize that we are all sitting in a group of sinners. Everyone, every state, every society has at one time or another been sinning against the freedom of the media. More correctly, since media is a new invention, of freedom of expression, speech and thought. Hence, we categorize ourselves in continuously shifting rearrangements, into past sinners, current sinners and, believe me, unfortunately, potential sinners. This tradition is not about to come to an end.

We do say this in order so nobody gives itself or its country or its state a position of self-righteousness in condemning the other. We are all sinners. Therefore, let us just say, where this freedom of media or speech historically came from. It is a relatively new invention of the last three-four hundred years and its main intention was the freedom to criticize government, the freedom to criticize the ruler, which is needed in order to keep it straight, or limit its power. Essentially, it was the freedom of dissent.

It was a strictly political issue and for a good reason. The connections we see between the democracy and free speech are not through the notion of freedom to insult, but it is in order to be able to express dissent and criticism of those who rule. That is the element of the freedom of speech and media that connects to democracy. Democracy's foundations are not in this freedom in some amorphous way, it is through the freedom of the ability to criticize government.

Here is the greatest paradox: greatest constraints on the freedom of speech are those imposed by governments. The paradox is that they are imposed under the guise of questions of security, national security. We even heard about the issue of secrecy that was mentioned a few minutes ago. Imagine, of all the people that should essentially be vulnerable to the freedom of speech, governments are the ones who can for the 'higher good' limit that freedom in terms of national security. Any country interested in a list of those, I will be more than happy to oblige, it is not new and it is ongoing.

That shows that at the very least national security is a goal, a value, an objective higher than freedom of speech or freedom of the media; or presented as such. People who do not believe this, can test it and see what happens to them.

American jurisprudence is a very clever one on this and distinguishes between prior restraints, where the government tells one ahead of time what cannot be published, and after, when it cannot stop a publication, although there have been cases of trying it. However, if one publishes, one bears the consequences of what is published, if for instance it either breaks other laws or it has consequences that damage others in an unjustified way.

But there is something even more than prior restraint: if my remembrance of these rules is correct, the Supreme Court spoke about 'chilling effects'. Not only one shall not make laws that limit that freedom, but it tells one that it should not act in a way that intimidates others from doing it.

If we look at the context of the controversy, we would not believe that those cartoons are justified as arbitrary, whimsical, insensitive expressions. The question of insensitivity is indeed a touchy one; I can't believe I am saying it. Let us explain. The main issue with the Freedom of the Media Representative's report came through two words, which he used quite often. One is 'misinterpreted' and the other one is 'misjudged'.

We found those to be very flimsy notions. It says that the reader has the obligation to interpret the intention of the speaker properly. How does one follow that logic? If somebody says something we interpret in a way we think it was intended; how do we otherwise determine what is responsibility and liability? Therefore, the speaker, such as me in this room at this moment, has to take every risk of being thoroughly misunderstood, misinterpreted and misjudged. If we do not take that risk, we shall remain silent, which many wisely do.

We have to be careful about doing this a process about intentions to basically exonerate people by what they intend rather than concrete actions they undertake; as well as the other way around.

In conclusion, let us add one or two items in the following way. Let us first say that taboo subjects exist by legislation and, fortunately or unfortunately, they are not all related to state secrets and security. Many European governments have outlawed mentioning in the press a certain perspective on certain issues. It is against the law to be touched or handled in a certain way. Therefore, the concept of legally established taboos does exist now.

There are two ways out of this. Either we need to enlarge the notion of taboos, the taboo items, or we need to remove the existing taboos, which would, when used offend many of us. That is we think what was referred to by our distinguished Egyptian colleague as a 'double standard', because if taboo is an acceptable notion then let us have it in the protection of many or the few, or if it is not acceptable, let us remove them all.

In a political system, a legal system, a society cannot prescribe respect. It is part of ours, the OSCE's we will call mythology to assume that tolerance and respect are subject to our governments' inducements or policies. We cannot prescribe respect. We cannot do it inside the home and the family, and we cannot do it anywhere else. What we can do? We can proscribe disrespect, in which case the burden becomes what is the extent, the limit and the content of what disrespect is. Not all forms of disrespect are necessarily offensive. Not all insults are necessarily damaging. Of course, we also have some problem with the further question of tastelessness.

If all this is to increase confusion, it is deliberate, Mr. Chairman. Simply approaching this situation with similar and ongoing repetitive notions of dialogue are ideas that leave our Delegation often a little skeptical, not cynical. If the willingness of listening to the other were there already, we would not probably as we said last time be in the mess we are in.

This afternoon we will have a chance to talk about the interaction of the two, or as our colleague said, the context of the so-called two various world-views and see what we can do here in the OSCE.

Thank you, Mr. Chairman.