



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

Introduction

This reporting period has seen both promising and challenging legal developments in several participating States in a field that the latest issue of *Index of Censorship*, the definitive international publication on free expression, calls the “Big Chill” – that is, the prosecution or imposition of exorbitant punitive fines for defamation.

The decriminalisation of defamation and libel has been substantially advanced in three nations: Ireland, Romania, and the UK. But progress does not come easily, and the motions in these countries to free the media from the fear of criminalisation and imprisonment are cases in point.

Ireland could soon become the first Western European state to actually drop from the books obsolete punitive provisions of libel and defamation, which, in fact, are practically unenforceable because of the case law of the European Court of Human Rights. Still, the dispute over a provision of “blasphemous libel” that was introduced at the same time that punishments for all other kinds of libel and defamation are to be abolished darkens the pleasure of the pioneering move.

In Romania, Parliament re-started to reform its defamation laws after the Constitutional Court ruled against the earlier adopted decriminalisation provisions. In a valuable recent development, Parliament decided to revise the Criminal and the Civil Codes in parallel, in order to establish a balance that protects the rights to both free expression and personal honour and dignity.

In the United Kingdom, the abolition of criminal libel from the statute books could soon follow the recent welcome elimination of the crime of blasphemy. However, civil-law provisions that have earned the UK the title of a “libel paradise” need to be reformed, especially the rule that, in a dispute, it is not the plaintiff but the journalist who bears the burden of proof.

Just how important these ‘best practices’ can be for the entire OSCE area is demonstrated by the fact that criminal charges threatening journalists with imprisonment are still the practice in several participating States. Unfortunately, several examples are found in this report. These cases prove that OSCE’s media freedom commitments may be complied with only if fact-

finding journalism receives the full backing of the law, and whatever inaccuracies may have occurred in the reporting process are not criminalised.

This report also notes examples of civil defamation cases that stifle free speech almost as effectively as does the threat of criminal charges.

In order to balance the protection of personality rights with the protection of press freedoms, four main tenets should imbue legislation and court practice. These are:

- In civil cases, reasonable limits should be introduced - by law or by precedent - on the amount of damages that can be awarded;
- The size of the fine should be proportionate to the inflicted harm and the financial situation of the defendant;
- The amount of the fine should not reach the ceiling of bankruptcy of the media outlets or individual journalists, nor should it endanger their normal work;
- In order not to restrict debate on issues of public interest, courts should take into account the public status of the plaintiff. Public officials should tolerate more criticism than ordinary citizens. If in such cases inaccuracies were committed in good faith, no damages should be levied.

I am convinced that deliberations on these issues here at the Permanent Council and in the participating States will bring further progress in relieving journalism from the “big chill”.

Issues Raised with the Participating States

Armenia

I had to turn to the authorities to express concern over continuing violence against journalists in Armenia twice within one month, **on 30 April and 18 May**.

I asked the authorities for a swift investigation of the brutal attack on Argishti Kiviryan, coordinator of the *Armenia Today* information portal, who was severely beaten on 30 April. I was glad to see that the original charge for the assault, “infliction of wilful light damage to health”, was later revised to “attempted murder by a group of people”.

On 6 May, Nver Mnatsakanian, the host of the *Erankar* ("Perspective") talk show with *Shant Television*, was beaten in front of the entrance to his home by two assailants who fled the scene.

I am concerned that these multiple recent attacks on journalists, and the lack of results in the investigations into these cases, may become a perilous trend endangering media freedom in the country. The latest incidents come in the wake of several earlier cases of violence against journalists that remain largely unsolved. These include the 2008 attacks on Lusine Barseghyan from the opposition newspaper *Haykakan Zhamanak*; Hrach Melkumyan, the acting Chief of Radio Free Europe/Radio Liberty's Yerevan bureau; and Edik Baghdasaryan, the Chairman of the Investigative Journalists' Association.

In light of these attacks, I call on the authorities to not only bring to justice all perpetrators of violence against journalists but also to publicly express their firm commitment to ensure the safety of Armenian journalists.

I am awaiting updates regarding the investigations noted above.

Azerbaijan

On 20 April, I wrote to the authorities to welcome the pardoning by Azerbaijan's Parliament of two imprisoned journalists and the court-ordered release of a third.

Mirza Sakit Zahidov, a prominent satirical poet and a journalist with the opposition newspaper *Azadliq*, and Ali Hasanov, the editor-in-chief of the newspaper *Ideal*, were freed on 9 and 11 April, respectively. The libel conviction of Asif Marzili of the *Tezadlar* weekly was also annulled on 9 April. The three had been serving prison terms on various charges.

The above measures coincided with President Ilham Aliyev's 10 April statement that described prosecution for libel as out of step with European standards and urged that imprisonment of journalists be avoided in the future. I expressed the hope that the President's intentions will be transformed into a legal reform.

I also pointed out my concern regarding the laws "On the Mass Media" and "On Television and Radio Broadcasting", which were adopted by Parliament on **6 March** and **3 April** respectively. Both would allow for government interference in the work of the media in ways that are not compatible with OSCE commitments on media freedom. I asked President Aliyev to send the unsigned Broadcasting Law back to Parliament for a review and to adapt it to international standards and commitments.

I learned with regret about a new prison sentence, that of Nazim Quliyev, **of 20 May**. Quliyev, the founder of newspaper *Ideal*, was convicted for "insult" and sentenced to six months in prison by the Nasimi district court in Baku. Suit had been brought against him by the chairwoman of the Azeri-Turkish Women's Union.

I look forward to updates from the authorities on the legislation mentioned above, as well as on the fate of the four journalists who remain imprisoned - Eynulla Fatullayev, Ganimat Zahidov, Mushfiq Huseynov, and, now, Nazim Quliyev.

Belarus

On 28 April, I wrote to Foreign Minister Sergei Martynov to ask the authorities to review several requests for accreditation that were recently denied to foreign journalists and media outlets.

- On 2 March, the request for accreditation by the privately-owned TV station *Belsat*, which broadcasts in the Belarusian language from Poland, was rejected as "incomplete."
- On 3 March, Andrzej Paczobut, a correspondent in Belarus for Poland's *Gazeta Wyborcza*, was stripped of his accreditation.

- On 4 March, Ivan Roman, a journalist with the privately-owned Polish-Dutch station *Radio Racyja*, was refused accreditation.
- In April, the extension of the accreditation of Andrzej Pisalnik, a Grodno correspondent for the Polish daily *Rzeczpospolita*, was denied.

I asked the Government to simplify the process of accreditation and also to allow foreign media to report based on first-hand sources¹. Denying accreditation to foreign journalists contradicts OSCE commitments and also harms the image of Belarus of an open country that forms part of the European community.

On 10 June, I again wrote to Foreign Minister Martynov, this time to express concern about the Presidential Administration's legislative initiative to incorporate the notion of "extremism" into the Administrative Offences Code. I also asked the authorities to revise the current law "On countering extremism", which I had already assessed in a letter to the Foreign Minister in October 2008.

According to the proposed new amendments, the production, distribution, and even storage of "extremist" materials could be punished with confiscations and fines. Presented in the National Assembly without prior consultations with civil society, the amendments utilise the existing law's vague definition of "extremism" and thus would allow arbitrary application. As a result, not only editors and publishers, but also distributors of media, such as kiosks, could be prosecuted under the accusation of "extremism", forcing them to monitor and censor not just media content but also simply what they stock on their shelves. I am awaiting further developments regarding the draft law.

In the past year, on two occasions, critically-minded publications were sanctioned on extremism charges. In September 2008, the August issue of the periodical *Svaboda* was judged "extremist" and its 5,000 copies were destroyed. Likewise, the autumn issue of *Arche* magazine was found to be "extremist" in a first-instance ruling on 25 February. This ruling was struck down by a court of appeal on 7 May and the case was returned to the first-instance court for re-examination. During the revision trial, the plaintiff, the Chief of the Brest regional KGB Office, withdrew his complaint and all the charges against *Arche* were dropped on 25 June 2009.

Bosnia and Herzegovina

On 29 April, I was pleased to receive a letter from Raffi Gregorian, the Principal Deputy High Representative on the media freedom situation in the country. He informed me that the OHR intended to propose that a joint action on benchmarking the media freedom dimension be incorporated in the EU priorities list for Bosnia and Herzegovina.

Both his analysis of the situation and his goal on how to address it corresponds with my previous assessment reports and my last Regular Report to the Permanent Council of 2 April. In these documents, I stressed the deteriorating media situation in the country, in particular the stalled implementation of broadcasting laws, the blocked work of the Communications Regulatory Agency, and the incomplete public-service media system. The lack of progress in

¹ For reference, see our Special Report on the Accreditation of Journalists in the OSCE area (25 October 2006, http://www.osce.org/documents/rfm/2006/10/21826_en.pdf)

these areas makes it crucial for the European Union to include the media governance when assessing Bosnia and Herzegovina's advancement towards European standards.

I ask the European Union to act upon these initiatives. Without an unblocked regulator and a unified public-service broadcaster, the ethnically composite nation of Bosnia and Herzegovina cannot comply with the OSCE commitments regarding media freedoms, and the unfortunate fragmentation of its media governance will become the norm.

Croatia

On 4 June, I learned that the Croatian authorities had made further progress in identifying the murderers of Ivo Pukanić, the director of the weekly *Nacional* and his marketing director, Niko Franjić. The two were killed on 23 October 2008 by a car bomb in front of their newspaper's offices. In an operation that involved cooperation with the Belgrade police, three key suspects were arrested in Belgrade in April and May. Four other suspects had already been detained and charged in early November 2008. I remain confident that all perpetrators will be brought to justice.

France

On 10 June, I welcomed the news that the French Constitutional Court had censured the law "Creation et Internet", also known as the "Hadopi" law. The law, adopted on 13 May by the Senate, stipulated the discontinuation of Internet subscriptions for up to one year for anyone shown to have carried out illegal file-sharing three times. The Constitutional Court disapproved the creation of a special authority that would be empowered to cut off Internet access in such cases. The Court ruled that freedom of expression and communication includes the freedom to access online public communication services, therefore Internet subscription could only be disconnected by a court order.

This decision highlights again the standard that only by a court of law can the content or functioning of websites be deemed illegal and banned.

Georgia

On 21 May, in a letter to the authorities, I asked for information on several recent cases of violence against journalists covering protest rallies.

These included the beating of *Rustavi 2* cameraman Levan Kalandia by unidentified individuals on 27 April, and the firing of a plastic bullet that injured photo reporter Ana Khavtasi of the *Versia* newspaper.

In a reply to my inquiry received on **10 June**, the authorities provided me both with information about the cases I had brought up with them and also about criminal investigations that have been launched in connection with some of the incidents.

On 27 May, I wrote to Foreign Minister Grigol Vashadze to express concern regarding the explosion of a hand grenade in front of the *Maestro Television* station on 25 May. The blast

resulted in no injuries, but it inflicted damage on the premises. I was glad to hear that a preliminary investigation into the incident had commenced, and that Davit Bakradze, the Chairman of the Georgian Parliament, has stated that he will personally oversee it.

I look forward to receiving updates on this investigation.

Ireland

On 19 May, I wrote to the authorities to welcome the Irish Parliament's final preparations to decriminalise defamation and stressed the domestic and international importance of this pioneering step – a first in Western Europe. At the same time, however, I warned that if a simultaneous proposal by the Justice Minister to introduce a new article on "blasphemous libel" went forward, Ireland would defy the welcome international trend that has led to the abolition of "blasphemy" as a crime in a number of countries.

The proposed new section of the Defamation Bill would replace an older blasphemy law, and would mandate the punishment of intentionally "blasphemous" publications or verbal expressions with a fine of up to 100,000 euros.

On 8 June, I received a detailed response from Justice Minister Dermot Ahern, clarifying his position on this issue. He noted that Ireland had made no direct commitment not to criminalise blasphemy. He reiterated that his main motive was to avoid a discrepancy with the Constitution, which renders blasphemy punishable, at a time when it is not politically viable to launch a referendum on a Constitutional amendment. He also informed me that he has amended his proposals to include a defence of "genuine literary, artistic, political, scientific or academic value" in any alleged blasphemous material.

I appreciate the precautions that the Minister has taken to minimise the probability of prosecution of legitimately critical speech. But I still believe that any blasphemy provision would weaken the right to freely discuss public issues, a right that is clearly upheld in OSCE media freedom commitments and other international standards. It also would send a mixed message to the OSCE community by a nation that has consistently voted against the "Defamation of religions" resolutions in the UN Human Rights Council.

Italy

On 24 June, I asked the Italian legislature to drop two planned legal provisions that would restrict the freedom of Internet and the reporting of court cases.

A proposal by the Government "on public security" would impose fines of up to 250,000 euros on Internet service providers that did not block materials believed to instigate or glorify criminal acts. Although the lower house of the Parliament voted on 14 May to delete this provision, the final version is still to be announced by the Senate.

A draft law "on telephone surveillance and electronic eavesdropping", approved on 11 June by the Chamber of Deputies, would prohibit public references to any documents related to court proceedings or police investigations prior to the conclusion of preliminary investigations. Violators would face imprisonment up to five years.

The draft does not provide for exemptions for cases where the published information was in the public interest. Neither does it differentiate between the officials leaking information and the persons passing it on or publishing it.

These deficiencies are incompatible with international media freedom standards because they contravene the citizens' right to know. Sometimes even officials who leak information may play an important role in the fight against corruption, and they, too, should be provided the defence of having acted in 'good faith', that is, in the public interest.

I asked the Senate to follow the suggestions of the lower house regarding the draft law on public security and to bring the draft law on telephone surveillance and electronic eavesdropping in line with European media freedom standards and OSCE commitments.

On 30 June, I received a response by the President of the Senate, Renato Schifani, informing me that he had conveyed my letter and concerns to the parliamentary commissions currently reviewing the draft laws.

Kazakhstan

On 19 May, I wrote to the leaders of the Senate of Kazakhstan's Parliament concerning the draft law "On Amendments to Some Legislative Acts of the Republic of Kazakhstan concerning Information and Communications Networks", passed in the second reading by the Mazhilis – the Parliament's lower house – on 13 May.

My Office had previously commissioned a legal review of the draft law. The review was forwarded to all relevant state bodies in February and presented during a roundtable discussion held in Astana on 9 April.

I expressed my concern that the draft law would limit the freedom not only of Internet resources, but also of traditional media outlets. It contravenes OSCE commitments and international standards by:

- allowing for unjustified limitations of freedom of the Internet by equating forums, blogs, chats and other Internet resources with traditional media outlets,
- expanding the list of justifications for suspending the production or the distribution of any media outlet,
- limiting free access of Kazakhstan's citizens to foreign media outlets and foreign Internet resources.

On 24 June, this law was adopted by the Parliament. The same day I wrote to President Nursultan Nazarbaev asking him to veto the Law and return it to Parliament for revision. Refusing to enact this law would send a strong signal that the forthcoming OSCE Chairmanship of Kazakhstan in 2010 intends to fully honour the country's OSCE media freedom commitments.

On 3 June, the case of the newspaper *Taszhargan*, which I am monitoring, took a new turn. The paper had been sued by Romin Madinov, a member of Kazakhstan's parliament, following an article critical of Madinov's role in agricultural policies. Unfortunately, the Supervisory Board of the Almaty city court has upheld a lower court ruling that increased the compensation to be paid by *Taszhargan* to Madinov by tenfold – from 3 million Tenge (approximately 16,000 euros) to 160,000 euros. The ruling contravenes international standards both on proportionality and on observing public interest in cases of civil libel for the sake of sustaining lively investigative journalism.

On 19 June, in a letter to the Minister of Foreign Affairs Marat Tazhin, I expressed my concern over a harsh court decision that repealed the license and closed down *TV-Art*, one of the most popular independent TV channels in Karaganda.

The district court decision of 10 June was based on the prosecutor's charges of "propaganda of extremist materials". During a live programme on 21 March, two unsolicited, provocatively anti-Russian text messages were shown at the bottom of the screen – allowed by the negligence of *TV-Art*'s staff who did not have a sufficient knowledge of the Kazakh language.

In my letter I stressed that such mistakes should be handled by the journalistic community itself through its own self-regulation mechanisms. Closing down the entire media outlet is a clearly disproportionate punishment. I hope that *TV-Art*'s appeal will be thoroughly considered by the higher courts.

I am monitoring the case of Ramazan Yesergepov, the editor of the weekly *Alma-Ata Info*, who was detained on 6 January for disclosing internal documents of Kazakhstan's National Security Committee in articles critical of this agency. Unfortunately, Yesergepov is still under arrest, and all proceedings so far have been closed to the public.

Kyrgyzstan

Kyrgyzstan's journalists have recently endured an upsurge of brutal attacks, two in June alone, while some cases from earlier this year remain unresolved.

On 18 May, I raised several cases with the Kyrgyz authorities and expressed my concern about the continuing violence against journalists. Irisbek Omurzakov, the editor of the newspaper *Tribuna*, was attacked by three men in Bishkek on 7 May. On 3 March, Syrgak Abdyldayev of *Reporter-Bishkek*, was severely beaten. On 26 March, Ulugbek Babakulov, the editor of *Moskovskiy komsolomolets*, and Elena Ageeva, a correspondent for the same newspaper, were physically assaulted.

On 20 May, I received a response from the Minister of Foreign Affairs. It only noted the case of Syrgak Abdyldayev, stating that criminal proceedings have been opened in connection with the attack against him.

On June 16, I had to raise two new cases. On 4 June, four unidentified men, two of them in police uniforms, attacked correspondents of the Independent Bishkek Television (NBT) Channel. On 5 June, Abduvahab Moniev, deputy editor-in-chief of the pro-opposition *Achyk Sayasat*, was beaten in Bishkek.

I asked the authorities to do everything in their power to halt the wave of violent attacks against journalists, which is threatening media pluralism ahead of the presidential elections scheduled for 23 July. I am still awaiting information regarding the other cases mentioned in my letters.

I also continue to follow the developments with regards to media pluralism in general. As I signalled in my letter from 11 December 2008, the suspension of the Kyrgyz language service of Radio Free Europe/Radio Liberty has also played a role in reducing the pluralism of Kyrgyzstan's media landscape.

Luxembourg

On 18 May, I wrote to authorities in Luxembourg regarding searches carried out by police officers on the premises of the weekly *Contacto* on 7 May. I asked them to ensure that this matter be handled in line with the provisions of the country's media laws.

The search was based on a "defamation and libel" suit against a journalist who published an article about child custody. Investigators seized a notebook, a computer file, and a CD-Rom belonging to the journalist. The aim was to force disclosure of the journalist's sources, which is contrary to the press law of the Grand-Duchy of Luxembourg and its established tradition of respect for freedom of the media. In particular, the 2004 Luxembourg Law on freedom of expression in the media makes clear that journalists are obliged to disclose their confidential sources only in cases of national security or in the prevention of a violent crime.

On 29 June, I received a response letter by the Justice Minister, Luc Frieden, informing me that on 20 May the district court of Luxembourg ruled that the searches were in line with the 2004 Law on freedom of expression and were not conducted in order to oblige the journalist to disclose his sources. The ruling is currently under appeal.

Moldova

On 14 April, I wrote to the authorities to ask them to investigate recent complaints about intimidation and obstruction of journalists who were covering the demonstrations in Chisinau that broke out following the parliamentary elections. I also asked them to secure free access for the international media.

In the letter I drew attention to complaints by reporters about their mistreatment by border services and law enforcement agents, as well as to accounts of assault, brief detentions, and restrictions on access to Internet services.

At the same time, I also called on journalists to observe professional rules of objectivity when covering events such as the post-election demonstrations.

My Office has issued Special Reports offering recommendations on accrediting journalists and on handling the media during political demonstrations². The report on handling the media stresses that journalists covering unauthorized or anti-governmental demonstrations should have the support of and not be impeded by law enforcement authorities. On the other hand, the recommendations call on media personnel to visibly indicate their professional status while on duty, to report objectively without inflaming the situation, and to refrain from becoming personally involved in the events they are covering.

I look forward to updates on the investigation into these violations. If journalists were indeed targeted with the aim of obstructing their reporting, then I hope that those responsible will be held accountable. This would send a strong signal that governmental over-reaction will not be tolerated in the future.

On 18 June, I wrote to the authorities of Moldova urging them to renew the license of the independent television station *PRO TV Chisinau*. I stressed that in a crucial election period, *PRO TV Chisinau* should be allowed to operate without restrictions, as it is an established player in the Moldovan TV market and one of the country's main independent sources of information.

Renewing the license without further delay would demonstrate the readiness of the authorities to comply with their commitments.

Montenegro

On 28 April, I was pleased to learn that the day before, five years after the murder of Duško Jovanović, Director and Editor-in-chief of the daily *Dan*, the Higher Court in Podgorica had convicted Damir Mandić as an accomplice in the murder and sentenced him to thirty years imprisonment. Mandić was arrested shortly after the assassination on 2 June 2004. A lower court's acquittal in December 2007 was overruled by the Appellate Court, and in the retrial Mandić was proven guilty based on evidence.

I remain confident that the other accomplices will also soon be identified and brought to justice. I look forward to receiving updates in this case.

Romania

On 30 April, I met Foreign Minister Cristian Diaconescu and discussed with him the ongoing simultaneous reform of both the Criminal and Civil Codes. I emphasized my satisfaction that Romania's Parliament appears ready to renew efforts to decriminalise defamation and allow verbal offenses to be handled solely under the Civil Code. I welcome this step, especially after the January 2007 ruling of the Romanian Constitutional Court to annul the decision to decriminalise defamation that was passed by Parliament in 2006.

² The two Special Reports are available at www.osce.org/fom/item_1_21859.html and at www.osce.org/fom/item_1_25227.html

Romanian civil society was able to participate at the last rounds of discussions on the drafts. As a result, the new draft Criminal Code now includes an exception of public interest in the case of recording or photographing scenes of private life. A similar provision was added to the Civil Code. I also welcome the removal of all references to the right of reply from the Civil Code.

The new Codes will come into force within two years. This reform can lead Romania towards the growing group of participating States who have strengthened their media freedom by decriminalizing defamation.

Russian Federation

I have to begin this part of my report with the sad news that, after having spent two months in hospital, Vyacheslav Yaroshenko, chief editor of the newspaper *Corruption and Crime*, succumbed on 29 June to the injuries he suffered in a brutal beating 29 April.

On 5 May, following the attack on Yaroshenko, I wrote to Foreign Minister Sergey Lavrov, commending recent Russian civil and parliamentary initiatives to fight violence against journalists. I also called on law enforcement authorities to ensure that perpetrators of such violence are denied impunity.

In the letter I specifically referred to the pledge by Russia's Union of Journalists to carry out an independent investigation into this attack. I also welcomed the recent joint initiative by the Russian Union of Journalists and the State Duma Committee on Information Policy to create a unit to investigate widespread violence against Russian journalists.

These initiatives were warranted by the fact that to date, no progress has been reported in the investigations of previous violent, and sometimes fatal, assaults against journalists. At least four other journalists were seriously assaulted this year in Russia: Anastasia Baburova, Sergey Protazanov, Vadim Rogozhin and Maksim Zolotarev. Baburova, a stringer for *Novaya Gazeta*, was shot dead, and Protazanov died two days after being attacked.

On 8 May, I received information from the Russian authorities that an investigation is under way into the murder of Baburova, who was killed together with human rights lawyer Stanislav Markelov in Moscow on 19 January.

On 9 June, I received information from the office of Russia's Prosecutor General about a violent attack on the Saratov-based journalist Vadim Rogozhin. The Russian authorities informed me that a criminal case has been opened for "intentional infliction of a grave injury".

On 19 June, I received a reply from the Russian authorities concerning my inquiry into the cases of journalists Vyacheslav Yaroshenko, Vadim Rogozhin, Sergey Protazanov, Anastasia Baburova and Maksim Zolotarev. The authorities informed me that they had opened investigations into the attacks on Yaroshenko, Rogozhin and Baburova. They also conveyed their lack of information on the Zolotarev case, and informed me that Protazanov's death was determined to have been self-inflicted by an overdose of medicine.

I am also monitoring the trial against the weekly newspaper *Chernovik* in Dagestan. **On 15 June**, the local branch of the media regulation body Rossviazkomnadzor has filed a suit with Dagestan's Supreme Court to close *Chernovik*, following warnings issued to the newspaper in July 2008 and in April 2009 for making allegedly "extremist" statements and for expressing a hostile attitude towards law enforcement authorities. The lawsuit was based on articles that criticised law enforcement actions.

Serbia

On 28 April, I wrote to the authorities about the conviction by the Niš district court of journalist Dragana Kocić of the daily *Narodne Novine*. She was fined one million dinars for having quoted from an official indictment in a newspaper article about the conduct of a public official and the use of public funds.

This ruling severely hampers investigative reporting and media freedom by imposing a high pecuniary fine in a civil defamation lawsuit against an investigative journalist.

I reiterated the relevant international media freedom principles that should be respected when assessing civil defamation cases: the fines imposed must be proportionate to the damaged reputation as well as to the economic power of both the journalist and the media outlet convicted. Importantly, officials need to tolerate a higher degree of criticism than ordinary citizens in order to foster free discussion on issues of public interest.

Slovakia

On 13 May, I was pleased to learn that President Gasparovic did not sign the amendments to the so-called extremism provisions of the Criminal Code and instead returned it to Parliament for further review. He stated that the amendment did not offer an exact definition of "extremism," and he requested a more precise definition of the type of "extremist material" whose production, distribution and possession could be penalized under the new amendment. In my 6 March letter to the authorities, I stressed that the undefined and overbroad concept of extremism in the draft law could result in arbitrary application and restrict otherwise legitimate reporting and debate.

I continue to offer my Office's services to provide expert reviews and recommendations on the draft law.

On 30 June, the amendments to the State Language Law were passed by Parliament. As stated in my previous report to the Permanent Council, I had signalled to the authorities my concern over the requirement to broadcast local and regional minority language programs in Slovak as well, as this would be technically and financially prohibitive and therefore would restrict broadcasting pluralism. I was glad to learn that, following a joint amendment from the Parliament Committees on 16 June, this requirement was dropped from the law. The Ministry of Culture would retain its monitoring, warning and fining powers regarding language usage in the media; my Office will continue monitoring that practice for compatibility with media freedom requirements.

I am also monitoring the case of a letter sent by the then Justice Minister Štefan Harabin to three publishers and to one radio station in May and June. In an out-of-court settlement, Minister Harabin, who is now the new President of the Slovak Supreme Court, requested a payment of 200,000 euros from each of them. He asked that the amount be paid to him within 40 days, for articles and broadcasts in 2008 and 2009 he claims had harmed his good reputation and honour. He reminded the publishers of financial payments he had previously received as compensation for moral damage stemming from false allegations about his person.

Spain

In the previous Report, I noted that I had expressed concern following the 18 March incident during which police violently dispersed a group of photojournalists covering a student demonstration in Barcelona. The injured journalists had been identified with press armbands.

On 6 May, in a response from the Spanish Delegation, I was informed that following this incident, the Counsellor of Interior of the Generalitat of Catalonia and the Dean of the Press Association of Catalonia signed a Cooperation Agreement to ensure that in the future media workers will be able to carry out their profession in freedom and safety. The Agreement also mandates additional training for police on the constitutional right of freedom of the media.

I would like to highlight this agreement as an example of good practice. It is fully in line with my earlier recommendations regarding the handling of journalists when covering demonstrations. It also contains the crucial element of the authorities and media jointly tackling the safety problem and working together to address it.

Turkey

On 18 June, I asked the authorities to drop criminal charges brought against author Nedim Sener for his investigative book on the murder of fellow journalist Hrant Dink and also called for reform of laws that make it possible to restrict the freedoms that OSCE commitments grant to critical publications.

Sener's book, *The Dink Murder and Intelligence Lies*, alleges that security forces failed to stop the 2007 murder by radical activists of the well-known Turkish-Armenian writer and cites alleged incidents of negligence by gendarmerie, police and national intelligence officers working on the still ongoing case.

Sener faces up to 28 years of imprisonment for “targeting people involved in anti-terrorism campaigns, revealing classified information, obtaining classified information, violating the secrecy of these communications, and attempting to influence the jury”. The underlying laws, such as the Criminal Code, the Press Law, and the Anti-Terrorism Law, as well as the recent Law No. 5651 on Internet regulation, all need to be modernized so that they cannot be used to restrict speech rights.

Turkmenistan

(See visits)

United Kingdom

On 10 June, I wrote to the authorities to welcome and voice support for the ongoing reform of the criminal defamation and libel provisions. A recent motion in the House of Lords would formally codify current legal practice, under which the category of criminal defamation has not been applied in the United Kingdom for decades. I emphasized that, as the UK's recent abolition of "blasphemy" demonstrated, a formal repeal of criminal defamation in the UK would be highly relevant and symbolic for the OSCE area as a whole. It would help both promote the decriminalisation of speech offences and protect journalists from being sentenced to prison.

On 18 June, I was glad to learn that the Belfast High Court ruled that Suzanne Breen, the editor of *Sunday Tribune*, did not have to hand over to police her interview notes relating to IRA involvement in the murder of two British soldiers. The judge acted this way in order to protect the journalist's safety from IRA, and also acknowledged that confidentiality of journalists' sources is recognised by law. The ruling sets a clear precedent for the United Kingdom.

United States

My Office is following the ongoing trial against the alleged mastermind and the confessed murder of the Oakland Post journalist Chauncey Bailey, who was shot dead in 2007. I am confident that the perpetrators of this brutal crime will be punished according to the law.

Uzbekistan

(See visits)

Projects and activities since the last report

Joint Statement on Media and Elections by global media freedom rapporteurs

On 15 May, together with the international Freedom of Expression Rapporteurs of the United Nations, the Organization of American States and the African Commission on Human and Peoples' Rights, I signed a Joint Statement on Media and Elections.

The Statement was signed by Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression, Catalina Botero, OAS Special Rapporteur on Freedom of Expression and Faith Pansy Tlakula, the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information.

The statement calls for:

- Measures to create an environment in which a pluralistic media sector can flourish.
- The repeal of laws that unduly restrict freedom of expression.
- Protection against liability for disseminating statements made directly by political parties or candidates.
- Effective systems to prevent threats and attacks against the media.
- Rules against discrimination in the allocation of political advertisements.
- Any regulatory powers to be exercised only by independent bodies.
- Clear obligations on public broadcasters, including obligations to inform the electorate, to strictly respect rules on impartiality and balance, and to grant all parties and candidates equitable access.

The four global free expression rapporteurs also agreed that "external pluralism" of the privately-owned media and guaranteed "internal pluralism" via public-service channels form the solid and indispensable basis of an informed electoral choice.

Measures to create a pluralistic environment should include obligations of transparency of media ownership, licensing of different types of broadcasters to promote diversity, rules to prevent undue concentration of media ownership, and measures to promote content diversity among and within media outlets.

The full text of the Joint Statement is available at:

www.osce.org/documents/rfm/2009/05/37655_en.pdf

Legal developments

Armenia

On 31 March, I presented the authorities with my Office's comments and recommendations on the law of the Republic of Armenia on broadcasting, and asked the National Assembly to review this draft.

I welcomed the positive changes regarding the criteria to grant a broadcasting license, sponsorship of TV and radio programmes, and preventive measures before suspending broadcasters. However, the amendments contain substantial flaws. According to the law, adopted on 28 April, the candidates for membership to both the Council of Public Television and Radio and to the National Commission on TV and Radio (NTRC) will be appointed by the President, reducing the chances that political and ideological variety is adequately represented. The candidates to the NTRC will not be tested for their record of defending media freedom. The financing of public-service broadcasting and the regulatory bodies will depend on the political will of the parliamentary majority. All this would further endanger

pluralism of views, and is incompatible with the notion of the “independent public broadcaster” and “independent regulator”.

The draft also ignores the problem of last year’s moratorium on issuing new licenses, which diminishes the already limited pluralism in the country by excluding any potential broadcaster from entering the market before the planned digital switchover in 2010.

My Office stands ready to continue assisting Armenia with its media legal reform in order to address the still existing shortcomings. I hope that the ongoing reform process will continue with the involvement of the civil society.

Romania

Please see the entry on the ongoing simultaneous reform of the Criminal and Civil Codes under the section on issues raised with the participating States. I welcome Romania’s renewed efforts to decriminalise defamation and let speech offenses be handled solely by the Civil Code, and look forward to receiving updates from the authorities.

Ukraine

On 18 May, I submitted to the Ukrainian Parliament, the Supreme Rada, my Office's recommendations to improve the draft law "On Access to Public Information".

On 12 June, the Supreme Rada approved the draft in the first hearing. The law is generally in line with the recommendations of my Office outlined in the 2007 survey "Access to information by the media in the OSCE region: trends and recommendations", which can be viewed at: <http://www.osce.org/item/24250.html>

I hope that the more detailed recommendations outlined in my letter will be incorporated into the final version of the law before its adoption. The very existence of this legislation will be vital for the transparency of the Government and will guarantee journalists' right to access information.

Self-Regulation

Tajikistan

On 21 May, I was pleased to learn that the Tajik media endorsed a code of professional conduct and agreed to set up a self-regulatory body. The code was signed during a gathering of representatives of media organizations, university lecturers, and independent journalists. Amongst the signatories are the majority of Tajik media organizations, including the Journalists' Union of Tajikistan and the national association of independent media.

The code had been a subject of intense debate for several years. With the help of the OSCE and experts from *Deutsche Welle's* media academy, a working group had spent two weeks to revise and prepare the document for endorsement.

I also welcome the fact that journalists are now working to establish a Public Press Council in order to oversee the implementation of the new document. I look forward to updates on this welcome process.

Seminar with Mediterranean Partners

On 19 June, and following a proposal by the Delegation of Egypt, my Office organized a media self-regulation seminar for the OSCE Mediterranean Partners in Vienna. This was the first time that the OSCE and all its Mediterranean Partners were brought together on a media freedom issue. The seminar addressed media professionals from the OSCE Mediterranean Partner States and self-regulation experts from the OSCE area. Close to thirty participants and representatives of the OSCE Delegations seized the opportunity to present different forms of media self-regulation. They discussed the relationship between media freedom and media responsibility as well as the merits of media self-regulation. Enhancing mutual trust and understanding was a special focus during the deliberations.

The event was conducted within the framework of the Partnership Fund. I use the opportunity to warmly thank the Governments of Denmark, France, Kazakhstan, Spain, and the United States for their valuable financial contributions, without which the realization of this seminar would not have been possible.

See the agenda at: "OSCE holds media self-regulation seminar for Mediterranean Partner States", http://www.osce.org/fom/item_1_38277.html

Training activities

- **Press secretaries and journalists**

Two training seminars aimed at furthering public access to information were conducted for press secretaries of government bodies and media workers.

On 25-26 March, a training event for journalists and press secretaries was conducted in Belgrade, Serbia. I would like to thank the Government of Austria for its generous financial support of this event.

On 28-29 April, a training seminar of this type was held for the third time in Kazakhstan, in the city of Karaganda.

- **Media self-regulation**

On 21-22 May, my Office together with the OSCE Mission to Moldova, organized a training seminar promoting media ethics through media self-regulation. Around thirty journalists and editors from all over Moldova, including Gagauzia and Transdnistria, participated in the two-

day event. I am grateful to the Governments of the Czech Republic and Germany for their generous financial support of the seminar.

Digitalization study

As announced in my last report, at the request of many non-governmental media organizations, my Office has commissioned a step-by-step guide that can assist participating States when dealing with the challenges of the digital switchover and its media freedom implications. The study is under preparation and will be published this summer in English and Russian.

Visits and participation in events

On 9 April, my Office participated at a roundtable on “State regulation of the access to Internet and the right of citizen to receive information” organized in Astana, Kazakhstan. My Office presented a legal review of the draft law “On Amendments to Some Legislative Acts of the Republic of Kazakhstan concerning Information and Communication Networks”.

On 30-31 April, I visited Turkmenistan where I opened a pioneering one-week training seminar for journalists and had the opportunity to address students of the newly established Institute for Foreign Relations.

During my meeting with Rashid Meredov, Deputy Chairman of the Cabinet of Ministers and Minister of Foreign Affairs, I expressed hope that journalists, representatives of academia and relevant authorities from Turkmenistan will join the 11th Central Asia Media Conference which will take place in Bishkek on 15 and 16 October 2009.

On 22-24 April, I gave the keynote address at the 8th Eurasian Media Forum in Almaty, Kazakhstan. During my stay, I held meetings with Dr. Dariga Nazarbayeva, Chair of the Eurasian Media Forum Organizing Committee and Ermuhamet Ertisbaev, Advisor to the President of the Republic of Kazakhstan.

On 3 May, I contributed to a conference on freedom of media in Bosnia and Herzegovina with an address given in absentia. I stressed the need for completing the institutional reform of the public service broadcasting system and for more political commitment to media freedom in order to address the growing attempt to undermine the independence of the broadcast regulator and the growing number of physical and verbal attacks against journalists in the country.

On 6 May, my Office participated in the conference on “Media in the era of the global economic crisis: Shaping social attitudes of the population”, in Minsk. This high-level event was attended by the First Deputy Head of the Presidential Administration, Natalia Petkevich, Minister of Information, Vladimir Russakevich, and the State Secretary of the Union State, Pavel Borodin.

On 6-8 May, my Office participated at the Eastern Partnership Summit Launch in Prague, organized by the European Neighbourhood Journalism Network, to discuss media

developments in Eastern Europe and the transition from communism to democratic structures.

On 22-24 May, my Office participated at the 6th Gathering in Istanbul for Freedom of Expression, to discuss current media freedom issues in Turkey.

On 27-28 May, I participated in an international expert workshop on the “Use of modern information-communication technologies in printed and electronic mass media” in Bukhara, Uzbekistan.

On 3 to 5 June, my Office participated in the Global Forum on Freedom of Expression in Oslo. It brought together over 500 media professionals, donors and academics for a conference and networking sessions on freedom of expression. Among the international organizations that participated were Index on Censorship, Article 19, Committee for the Protection of Journalists, Reporters without Borders (RSF), International Federation of Journalists, Amnesty International, International PEN Writers' Union, and Freedom House.

On 11 June, I addressed the 2009 OSCE-Japan Conference with the Asian Partners in Tokyo on civil society development and the media.

On 25 June, I gave a keynote speech at the conference “Beyond East and West – Two Decades of Media Transformation after the Fall of Communism”, organized by Central European University in Budapest, Hungary.

Activities confirmed for the next reporting period

- **Between 5 and 10 October**, I will participate at the Freedom of Expression – Free Media and Information Sessions of the OSCE Human Dimension Implementation Meeting in Warsaw, Poland.
- **On 15 and 16 October**, the 11th Central Asia Media Conference is scheduled to take place in Bishkek, Kyrgyzstan.
- **In November**, the 6th South Caucasus Media Conference is scheduled to take place in Georgia.