



**Organization for Security and Co-operation in Europe
The Representative on Freedom of the Media
Harlem Désir**

Central Asia Judicial Dialogue
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Opening remarks by the OSCE Representative on Freedom of the Media

TO BE CHECKED AGAINST DELIVERY

Your Excellencies,
Distinguished guests,
Ladies and gentlemen,

It is my pleasure to welcome you today at the second Central Asia Judicial Dialogue, which my office is glad to hold here in the city of Samarkand.

I want to thank Ambassador Sherzod Asadov and the Republic of Uzbekistan for welcoming us this year.

We appreciate the support rendered by Mr. Komil Allamjonov, Chairman of the Supervisory Council of the Public Foundation of Support and Development of the National Mass Media and by Ms. Saida Mirziyoyeva, Deputy Chair of the Supervisory Council of the Foundation, as well as the support of the Agency of Information and Mass Communications under the Presidential Administration, for helping to organize this event. We are honored that Mr. Baktior Isakov, Deputy Chairman of the Supreme Court of Uzbekistan, will also address this session today.

It is a great pleasure to be in Uzbekistan, and in Samarkand, a city of history and culture, at a time of changes and reforms, especially in the field of media freedom. Just last year in December, the President of the Republic of Uzbekistan, Mr. Shavkat Mirziyoyev, announced the decriminalization of libel and defamation, and a new law was adopted which gives to bloggers the same rights as journalists.

This meeting provides the first regional forum of its kind, and brings together judges and legal experts from across Central Asia and outside the region, to discuss a subject which is of major and pressing importance in the entire OSCE area: the role of national judiciaries in safeguarding freedom of expression and freedom of the media.

I want to underline the very high level of representation of the judiciary authorities of the region, and to thank the representatives of each country, and the international experts, who join us for this meeting today.

I would like to thank Mr. Allamjonov and Ms. Mirziyoyeva to give to this year's meeting of the Judicial Dialogue such a high degree of visibility.

This expert meeting provides a platform for you, jurists and judges, to exchange opinions on the newest tendencies and the most pressing issues, which you encounter when adjudicating cases concerning restrictions on freedom of expression and freedom of the media. This time, there will be extra attention paid to specific regulations pertaining to national security, the fight against terrorism and hate speech.

Such regulations have been in use for decades. However, recently, they have been updated and largely tightened, in many OSCE participating States.

The benefit of the opening of the information environment through digital technologies, the internet and social media is tremendous. It is very important to support and encourage their development for the extension of freedom of expression and the free media. At the same time, these new technologies have also expanded the impact and the dissemination of violent content, terrorist propaganda and diverse types of hate speech. This is an important concern for citizens, as it is for the states.

How to preserve the benefit of the opening of the sphere of communication and information while combating violent content? To answer this question the judges have a key role, both in the fight against unlawful content and in preserving freedom of expression.

Freedom of expression and freedom of the media is at the heart of the development of any modern democracy.

All OSCE participating States have committed themselves to respecting certain principles regarding freedom of expression and media freedom. Allowing the media to work freely and properly is key to ensure that citizens can be informed on important issues related to national and international affairs, economic and social affairs, and on the work of the government and local authorities.

Media freedom also contributes to the democratic process by allowing the expression of diverse opinions and an informed citizenry. It contributes to the fight against corruption, with the work of investigative journalism.

The role of journalists is even more important at a time when we face the phenomenon of “fake news” and the dissemination of false information on the internet.

For media freedom to develop, we need to support not only diversity and pluralism of the media, professional standards of journalism, but we also need to have a good legal framework and good implementation, with an independent judiciary which would protect the media at the same time that it fights against violent extremism, terrorism and hate speech.

It is very important to find the right balance in the legislation and in its implementation.

My Office has regularly flagged cases in the OSCE area, including in this region, where a number of articles of the Criminal Code have been applied to curb reporting that was embarrassing to state actors, or to muzzle the right of citizens to express their opinion.

These regulations mainly concern legal articles that try to deter incitement of inter-ethnic, racial, regional and social enmity, but also those on propaganda of terrorist and extremist ideas,

in particular via the media, as well as the possession of certain materials, deemed extremist or terrorist.

Another legal phenomenon, which has been of great concern to my Office, are the sometimes sweeping applications of laws on defamation and insult and the issuance of heavy damages.

Too many journalists are criminally prosecuted or investigated, or have fallen victim to heavy damages, simply for performing their duty to inform citizens.

I welcome very much the decision of Uzbekistan and another state of the region to decriminalize defamation. I encourage the other states to follow this example. However, the issue of exorbitant damages which threatens the survival of media outlets across the area remains topical.

Journalists and other critical voices have also sometimes been prosecuted for “liking” social media posts of allegedly extremist content. We will discuss all these issues.

There is no doubt about the positive expansion of the possibilities to communicate and be heard, with the rise of digital technologies. Ever more people can access, share and disseminate information and ideas. But the question many around the globe, as here, struggle with, is how to curtail the dissemination and spread of violent content and the enormous quantity of hateful rhetoric, or how to tackle the spread of disinformation, viral deception, and manipulation of information, in this digital age. The answer is not an easy one, and, as we are talking about cross-national issues, it needs to be addressed both at national and international level.

There are different legislations in place in different jurisdictions, so we need to know how to maintain a level playing field, an open internet, and how to deal with many differences in national legislations while we are all using the same platforms that are supposed to implement the same terms of services.

I do not need to remind you that recourse can be found in international law, which provides guidance for the delicate balance between the states’ obligation to protect its citizens against unlawful and harmful content on the one hand, and the freedom of expression and free media – paramount to any well-functioning society – on the other hand.

Obviously, this balancing is up to you and your colleagues, and we should be aware of any attempts to take this important task away from you. Neither should we allow internet companies to become responsible for controlling our fundamental human rights or to shape the future of freedom of expression with private censorship of discriminatory algorithms. Nor should we allow state institutions to come up with a variety of legal and administrative tools, oftentimes very broadly and vaguely defined, to serve political expediency rather than protection of society against acts of terror.

That’s why we believe that it is a key role of the judiciary to protect citizens against undue restrictions of the fundamental right to freedom of expression.

In ensuring compliance with international standards, you are the ones that need to ensure that the crucial role of the media, in informing the public about matters of public interest, remains in place.

The objective of this expert meeting speaks to these duties directly. We are gathered here to raise awareness across the region of the relevant international human rights standards on freedom of expression and freedom of the media, which must be taken into account when deciding cases concerning national security, hate speech, but also defamation and insult, within their jurisdictions.

The outcome of this judicial dialogue will be a series of recommendations on *how* national judges should address cases concerning national security and hate speech, on the one hand, and freedom of expression and freedom of the media, on the other. They will also address the issue of defamation and ensuing damages.

We hope that States, governments, legislators, and judges in the region will make the best use of these recommendations as guiding benchmarks for their future work. While these principles are drawn from international legal standards, they are nonetheless particularly resonant and applicable in the context of Central Asia.

Let me conclude these remarks by once again thanking Uzbekistan and the city of Samarkand for welcoming us today and all of you for taking part in this meeting. I look forward to a fruitful discussion over the next day.

Thank you.