



EUROPEAN UNION

OSCE Human Dimension Seminar Media Freedom Legal Framework

Warsaw, 14 May 2013

Speaking Points

Working Group 2 – National Frameworks

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SOME RECOMMENDATIONS/BENCHMARKS FOR NATIONAL FRAMEWORKS

(USED BY EU DELEGATIONS OVER THE WORLD IN DISCUSSIONS ON FREEDOM OF
EXPRESSION AND FREEDOM OF THE MEDIA)

- *Role of a Ministry of information/communication is clearly defined;* (i.e. not used as a tool to control freedom of expression and media plurality and independence, but foster it)

- *Existence of an adequate legal framework on freedom of expression:*

- Freedom of expression is guaranteed in law;
- The right to information is guaranteed in law;
- Editorial independence is guaranteed by law;
- Journalists' right to protect their sources is guaranteed in law;
- Freedom for journalists to create unions is guaranteed and respected;

- *Existence of an adequate regulatory system for broadcasting:*

- Existence of an independent body in charge of regulating, monitoring and ensuring the plurality of the media;
- The independence of such regulatory system is guaranteed by law;

- *Existence of a pluralistic and independent media:*

- The launch of a publication should not be submitted to any restriction or authorisation regime. At most, a notification regime could be implemented;
- There should be no State monopoly on printing rotatives, on ink and paper supply, on TV and radio companies;

- The State has no control over private advertisements allocations; does not discriminate through public advertising policy; An effective regulation governing advertising in the media is adopted and implemented;
- Existence of an independent, fair and transparent regulatory process system and process for the attribution of broadcasting licences; State actively promotes a diverse mix of public, private and community media; State plan for spectrum allocation promotes diversity and ensures optimal use for public interest;

- Defamation laws:

- Participating States should consider decriminalising defamation and slander (i.e. defamation should be regarded as a civil offence; Journalists should not face prison sentences for having expressed their views);
- Defamation laws should impose the narrowest restrictions necessary to the protection of the reputation of individuals (but not the state institutions);
- Any restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law;

- Censorship:

- Absence of censorship and limitations to the right to freedom of expression;
- The media is not subject to prior censorship as a matter of both law and practice;
- Restrictions and banning decisions need to be transparent, duly justified, taken in the framework of a proper legal procedure and be subject to appeal;

ON THE INTERNET

Human rights and fundamental freedoms, pertaining to each and every individual, are technique neutral. Making use of freedom of expression over a telephone does not render international human rights law - or OSCE commitments - non-applicable. Similarly, the Internet and other new technologies do not alter or modify our common OSCE commitments or other international human rights obligations.

On the contrary, the Internet is a technology that can promote both development around the globe and the enjoyment of human rights, by providing media outlets, journalists, individuals, governments and each and every person, the possibility to receive and impart information. This has been affirmed globally through a Human Rights Council Resolution in July last year. The result is that freedom of opinion and expression on the Internet is entitled to exactly the same level of protection, which is provided for expressions elsewhere.

The EU has repeatedly condemned restrictions to freedom of expression on the Internet, as well as the illicit surveillance and harassment of bloggers. We deem it unacceptable that governments are increasingly using sophisticated methods to censor online content and limit access to the Internet contrary to their international legal obligations and to the detriment of their own people and growth of their societies.

That said, the unstoppable expansion of new information technologies forces us to face new situations in which human rights norms have to be applied. We therefore stand ready to cooperate with others in exploring adequate Internet policies, consistent with our international human rights obligations. **We would like to hear panelists' views on how to best mainstream a human rights perspective into governments' policies on the Internet, including safeguards for the freedom of expression? How should we balance the right to private life with the freedom of expression on the internet?**

One of the very features of the Internet is its diversity. Various stakeholders contribute to the ongoing development of the Internet and the enrichment of the global information society. Moreover, Internet services themselves are run and maintained predominantly by private entities. While fulfilling our primary responsibility to protect individuals from human rights abuses, we continuously encourage cooperative efforts by the private sector to respect and promote human rights online. **Could we have panelists' views on how governments should ensure that any measures taken by these intermediaries are in line with human rights standards?**