



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

Report to the Permanent Council

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Madame Chairperson, Ladies and Gentlemen,

let me begin today with a very interesting and critical analysis by the President of the largest OSCE participating State, President Putin of the Russian Federation. I quote from his address to the Federal Assembly (8 July):

"Russian media, like society as a whole, is still in the developing stage. One should talk about this directly. The media reflect all the problems and the "growing pains" of the country. Since they work here, in our country, and are not following events from some island. Our journalism is like society and like the power structure. That is why, when I am often told: 'Deal with the media, do this and that.' I answer: 'let us deal with society as a whole, than the media will change.' But without truly free media Russian democracy will not survive and a civil society will not be developed. Unfortunately, we have not been able to develop concrete democratic rules, which guarantee the genuine independence of the fourth power. I would like to underline genuine. Journalistic freedom turned into a tasty dish for politicians and leading financial groups, became a useful tool for clans in their infighting. As President of the country, I consider it my duty to draw the attention of the public to this."

This statement is a broad commitment to freedom of media and, at the same time, a convincing description of the challenges Russia is facing in this regard.

With great relief we learned last month that French freelance photographer Brice Fleutiaux, held hostage in Chechnya from October 1999 until June 2000, was finally freed. I would like to use this opportunity to thank all those involved in his release, especially the Russian Government. We regret, however, that the Russian journalist Andrei Babitsky was finally not able to personally receive the OSCE Prize for Journalism and Democracy 2000 during the OSCE Parliamentary Assembly's session in Bucharest last week.

My Office has continued to observe the situation of Media-Most, a leading Russian media conglomerate owned by Mr. Gusinsky. The media belonging to this conglomerate tend to take a generally critical attitude towards the Government. Three incidents in the past weeks - the raid on the premises of Media-Most, the detention of Vladimir Gusinsky, the delay in allowing a top manager with Media-Most, Igor Malashenko, to leave for the World Economic Forum on Central and Eastern Europe - could suggest a certain pattern of action against Media-Most. These incidents, on the other hand, did not affect so far the work of the media that are part of this conglomerate. We have also taken note that other major companies which also own media outlets are currently being investigated for alleged business malpractice.

The situation of the media in the Federal Republic of Yugoslavia remains very difficult. I have spoken at length here regarding the ongoing (for over a year-and-a-half) campaign of persecution against the media in Serbia. Here are some additional facts:

Since the beginning of the year about 15 independent media have been shut down. More than 200 broadcasters were threatened with closure after the government refused to renew their licences. Arrests of journalists and acts of vandalism are common, and the authorities have stepped up their threats against members of the press. Moreover, about 30 media have been ordered to pay heavy fines totalling 28 million dinars (2.6 million Euros) in the past 20 months. I have written on numerous occasions to Yugoslav Foreign Minister Zivadin Jovanovic. We have asked also the Russian Government to use its influence on Belgrade to ease the pressure on the media.

Regarding Kosovo, I would like to draw your attention to the recent attack on Valentina Cukic, the Serbian editor of Radio Kontakt. I consider any attack against a Serbian journalist in Kosovo, especially in Pristina, to be related to the ethnicity of that journalist and I urge UNMIK, which is in charge of administering the province, to investigate this case promptly.

My Office continues to be concerned with cases of "hate speech" that are still reported in the Kosovo Albanian language media. I have been raising these issues since last autumn. Some of these cases will be probably dealt with under the new UNMIK regulations of 17 June regarding broadcast and print media. These regulations, dealing with the conduct of the print media and the licensing and regulation of the broadcast media, can be an important step in developing a democratic society in Kosovo. They are timely and we should urge our colleagues in Kosovo to start implementing them as swiftly as possible. We should bear in mind: these regulations are established in a society, which does not have an independent court system and that the laws applicable in Kosovo are those of the Federal Republic of Yugoslavia.

However, the UNMIK regulations have already been heavily criticised by NGO's as being too intrusive. I believe that under the current circumstances, the anarchy in the media scene, where, for example, it is almost impossible to monitor all unauthorised radio stations, can only be streamlined by an international organization, in this case the OSCE. I also understand that a media appeals board will be established in Kosovo. This board will have the right to overturn any decision made by the media commissioner, who will have overall authority for media. Both my Office and the Council of Europe have been asked to serve on this board together with a prominent local lawyer.

On 22 June, the Russian Ambassador addressed my Office on Radio and Television Kosova (RTK) administered by the European Broadcasting Union. According to the Russian delegation, the programming of RTK was "unbalanced", "has clear anti-Serb orientation, ignites inter-ethnic divergences and ultimately undermines efforts of the international community aimed at peaceful settlement in Kosovo". I have asked the Russian Delegation to provide my Office with more detailed information on cases supporting this critical assessment of RTK programmes. No such information has yet been provided. As to my Office, I will take up, as I have done before, all serious cases of "hate speech" in the media in Kosovo. For the time being, it seems, however, that RTK is one of the better broadcasters in the province. It provides a forum for different political forces and promotes dialogue. And it is only one of the two licensed and reliable sources of information in the province in the Serbian language.

My Office has continued to monitor developments in Central Asia and to intervene in a number of cases.

In Tajikistan the Chairman of the State Radio and Television Company, Saifullo Rakhimov, was killed on 20 May.

In Turkmenistan all private Internet and email providers were closed down at the end of May. The largest private internet provider Ariana Ltd has continued despite this decision, now as a free service: currently it faces threats of frozen bank accounts and cut satellite connections. The Government should revoke this decision which is a step towards full state monopoly on information.

In Uzbekistan, several journalists serve sentences because of defamation and "insulting the President". I have earlier intervened on several of these cases: no journalist should be sentenced to prison because of his journalistic activities. In the last months there has been further concern because of the deteriorating health of some of these prisoners.

In Kyrgyzstan several newspapers have experienced harassment, including Res Publika and Vash Advocat. The problems range from frozen accounts and distribution refusal to arrest of journalist Aziza Abdrasulova after a peaceful demonstration in March. Vash Advocat has seized to appear. Most recently, 19 June, the independent journalist Ibrainov Moldosali was sentenced to two years in prison for criminal defamation. In the newspaper Akyikat he had accused a judge of taking a bribe during an election-related case. There are procedural problems in the trial, including the fact that the journalist was not represented in court by a lawyer. The case is currently being appealed to a higher court.

The President of Kazakhstan, in a televised speech on 24 April, stated that he would not tolerate mass media insulting and discrediting those in power. He also encouraged the media to focus more on positive developments. I have voiced my concern about these

remarks to the President. My Office has since identified and intervened on several cases. The newspaper XXI Vek has been suffering from a series of persecutions. In the last months different state agents have seized several of its issues. Now the newspaper has disrupted its publication for an indefinite future. Similar problems have also been experienced by the newspaper SolDat, which is now having problems finding a publishing house willing to print the newspaper. In March, the Channel 31 News Director Tatiana Deltsova was fired. There are strong indications that the firing was a political one as she had, as the sole journalist, been reporting on harassment of the opposition. Libel is also a serious problem involving many media outlets in Kazakhstan. The case of Nachnyon s Ponedelnika can illustrate the situation: since October 1998 a total of 17 lawsuits have been filed, involving more than 2 million USD. Fifteen cases are still pending; the newspaper has lost the other two. As a result, the property of the newspaper and its parent company, Tokh-Nur, has been seized. The newspaper has ceased publication. Earlier this week, the biweekly Russian-English newspaper "Globe" could not be printed due to a sudden refusal of the printing house. On 8 July, "Globe" had published a major critical article on the President of Kazakhstan. Apparently, the tax police already indicated thorough investigation of "Globe".

I have earlier identified several strategies used in different countries to hinder the media from fulfilling their function in accordance with OSCE principles and commitments. One of these strategies that should be highlighted is "censorship by warning": after a certain number of warnings or admonitions on the contents of reporting a newspaper can be closed down by court order. Currently this strategy can clearly be seen in Belarus. The last months have seen a serious increase in warnings to independent newspapers that are now under threat of closure. This type of warning legislation cannot be accepted as it distinctly hampers the freedom of information and leads to self-censorship. This practice must be changed.

Within the realms of the on-going public dialogue in Belarus, the expert group on media has developed several proposals for improving the media field in the country, especially in light of the upcoming elections. I encourage the Government to now accept these amendments. Another reminder: the opposition in Belarus still does not have access to the electronic state media as was agreed by the Government and the opposition in November 1999. This access must be granted. Finally, I have to draw your attention to the disappearance of cameraman Dmitry Zavadsky on 7 July at Minsk airport where he was supposed to meet ORT journalist Pavel Sheremet. I urge the authorities of Belarus to do their utmost to find Mr. Zavadsky.

An update on media issues in Ukraine: We would like to start implementing the recommendations outlined by the Council of Europe and my Office at our joint round table on libel held in Kiev in December 1999. To this effect, we submitted to the Government of Ukraine several concrete proposals for action on 18 April. Our proposals include the production of a television programme on European and international standards in the media field to enhance public awareness of these standards. We also suggested the publication of a bulletin with specific legal information to be distributed to judges and lawyers. Obviously, we are also open to any other suggestions for projects in line with our recommendations of December 1999. In our view, our proposals could and should be developed into projects to be implemented by the OSCE Project Co-ordinator in Ukraine with whom we have consulted on this matter. Such projects are subject to the formal approval by the Government, which we have not received yet. However, the Ministry of Foreign Affairs informed me earlier this week on the state of proceedings.

Let me inform you also that the first Russian edition of our Yearbook is available now and will be distributed to interested delegations and to the OSCE offices in Russian speaking countries during the next weeks.

An issue of concern to my Office is the case of "Avrupa", a small newspaper in the northern part of Cyprus. On 8 July, the editor-in-chief Shener Levent, two editorial writers as well as a local military officer and his wife were arrested and accused of espionage. Beforehand, this newspaper had been sentenced several times for libel and defamation of Mr. Rauf Denktash to pay fines of more than 200,000 USD. These fines, if paid, would ruin the newspaper. On 16 May, Mr. Denktash's lawyer had the newspaper's equipment seized to ensure payment for his own fees. At the end of May, trials began against "Avrupa" on a number of lawsuits for "instigating hatred against the Turkish

republic of North Cyprus and the Turkish army". We are in close contact with the UN and other agencies on this matter.

Now a few words on our plans for the next few months:

On 10-12 October, my Office together with the OSCE Mission in Bosnia and Herzegovina and the Council of Europe will hold a regional Media Conference in Sarajevo in the framework of the Stability Pact. This conference is intended to focus attention on the current state of the media in SEE and to assess its role in conflict prevention and in the process of reconciliation that is slowly moving southward in the region. Based on this assessment, the conference is intended to facilitate the development of regional strategies to promote free media.

At the end of last year, I published together with Nenad Popovic "In Defence of the Future" with contributions from key authors of the former Yugoslavia on prospects for peace and stability in the region. We have been encouraged to undertake a similar publication with contributions from writers and journalists from the Northern and from the Southern Caucasus that is from Russia, Georgia, Azerbaijan and Armenia. Ambassador Heidi Tagliavini, Representative of the CIO for the Caucasus, and I will edit this book together. It will be available in Russian, English and German in October and be also presented in the region.

Together with the OSCE Mission in Tadjikistan, we are currently organizing the second regional Media Conference in Central Asia to take place in the autumn in Dushanbe.

We are also planning to hold two round tables in the second half of this year: one on the protection of journalists in conflict zones and another one on journalism and corruption.

Let me address here also a more organizational element in the work of my Office: The Third OSCE Public Affairs Roundtable of May 2000 recommended (inter alia) that my Office should be strengthened with a legal expert who could advise OSCE missions on legal frameworks, press codes for the media and act as a repository for good practices. We believe that this is a justified demand, and providing assistance is clearly part of our mandate. Therefore, we are prepared to examine the possibilities of integrating such expertise into our Office including the costs, which are of course not yet foreseen in our budget outline of April.

Madame Chairperson,

in conclusion, I would like to share with you a few thoughts on freedom of media in the Helsinki process and on the work of my Office.

The OSCE is celebrating the 25th anniversary of the Helsinki Final Act. Therefore, we have recently circulated as a reminder a document of reference that contains all the CSCE and OSCE commitments related to freedom of expression, free flow of information and free media since 1975. It is an impressive document about a main element of democracy and of cooperation among States. These commitments are valid throughout the OSCE regions, and they form the basis for Government action in the field of media and for action by my Office.

After my last report to you, end of March, there was one question about our working methods, especially about dealing with information we receive from non-governmental sources. In fact, we do our utmost to clarify NGO and media information on the numerous alleged violations of press freedom. A great number of letters, which I address to Foreign Ministers, do ask for official clarification on such information. Many Governments respond quickly, others take their time. My experience over the past two years is, however, that also such direct contacts with Governments do not necessarily lead us to always adhere to the views of the Government concerned. This has certainly and objectively to do with the subject matter of our work, freedom of media which has often to be defended against Government action. In this respect, my mandate (par. 9) requests me to be guided by my "independent and objective assessment".

I would like to add another explanatory element here: how do we decide when to take action in defence of freedom of the media? When I take a decision to either intervene or

not intervene on behalf of a person who may be prosecuted for exercising his or her right to freedom of expression or a media outlet, I always take into account the situation in that country. On individual cases the question is: can a newspaper or a journalist defend themselves? does a legal framework exist in the country concerned that will ensure justice without prejudice or bias? Could the case be eventually solved by the European Court on Human Rights in Strasbourg?

That is one of the reasons why we have to focus so often on the challenges in the newly emerging democracies in eastern Europe and in the former Soviet Union, where the existing court system is still fragile and relevant legislation in need of further improvement. President Putin referred to these challenges in his speech, which I quoted at the beginning of my report.

On broader issues such as, for example, access to information, media laws, governing bodies of public broadcasters, I always look: is there a public debate on these matters and is this debate unhindered? Or are decisions made behind closed doors with the public told of the result? The open debate has a corrective function, and I believe as long as this function exists there is still a need to gather relevant information but less necessity to intervene.