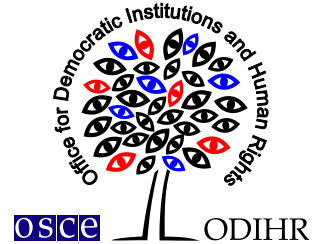


OSCE Human Dimension Seminar

ENGLISH only

MEDIA FREEDOM LEGAL FRAMEWORK



CONSOLIDATED SUMMARY

Warsaw, 13–15 May 2013

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OVERVIEW

The Human Dimension Seminar on Media Freedom Legal Framework, held on 13-15 May 2013 in Warsaw, provided a forum for government representatives, international organizations, academia, NGOs, experts and media professionals from throughout the OSCE region to exchange views on key aspects of the rule of law framework for media freedom. The participants shared best practices and challenges in the area of media law and policy, as well as strategies for better implementation of OSCE commitments on a national level.

The event built upon the notion that the implementation of good laws and sharing of best practices are essential to fulfilling OSCE commitments on media freedom. The Seminar also emphasized that efficient implementation of the OSCE commitments in the area of media freedom remains an integral part of the OSCE's concept of comprehensive security. Participants noted that in order to live up to the notion of freedom, legislation should be kept to a minimum in all media, including print media, broadcasting or new media. In addition to sound legislation, the need for proactive support by politicians, legislators and the judiciary, and the importance and role that free media play in safeguarding basic human rights, were also discussed. Media freedom was also identified as one of the priorities in the human dimension by the 2013 Ukrainian OSCE Chairmanship.

The Seminar participants reiterated the numerous commitments that participating States have agreed upon in the last almost four decades in the field of free expression and free media, starting with the Helsinki Final Act in 1975, and pointed out that much remains to be done in order to fully implement these commitments in the entire OSCE area.

In three working groups, the participants discussed the following topics: international framework for media freedom, national frameworks for media freedom – best practices, and implementation of existing OSCE commitments. The closing plenary session focused on practical suggestions and recommendations on how to address the issues raised in the working groups.

The Seminar was not mandated to produce a negotiated text. The main conclusions and recommendations of the event are included in Section II of this report. Recommendations put forward by delegations of OSCE participating States, international organizations, NGOs, academia, experts and journalists drew attention to a broad range of issues, and were addressed to governments, the OSCE institutions, field operations, and civil society. Seminar conclusions and recommendations are not based on consensus; however, they should serve as useful indicators for the OSCE in assessing the current situation and in setting future priorities. Documents from the Seminar are available at http://www.osce.org/event/hds_2013.

I. CONCLUSIONS AND KEY RECOMMENDATIONS

The 2013 Human Dimension Seminar was chaired by the OSCE Representative on Freedom of the Media, Dunja Mijatović. The Chair addressed the opening and closing sessions (see Summary of the Proceedings and Annex II).

a. CONCLUSIONS

The roles played by governments and NGOs are of crucial importance in promoting media freedom and media pluralism. The Chair of the event emphasized that when it comes to promoting fundamental freedoms, such as free media and free expression, the simple rule is that “those who govern least, govern best.” The participants discussed a wide range of issues, including the need to have press laws that reflect international standards on free expression; the need for editorial and financial independence for public service broadcasters; the opportunity provided by the digital terrestrial switch to enhance media pluralism; the importance of decriminalizing speech offences; the need to keep the Internet free; access to information laws that ensure that governments do not hold information for their own sake, but in the name of the citizens they govern; the role of investigative journalism in fighting corruption and the need to protect it; the danger of security concerns used as a pretext for impeding free media; the obligations of governments to fight impunity of the masterminds and perpetrators of violence against journalists; the merits of self-regulation in improving the quality of journalism and offering fast remedial action in case of mistakes; and the numerous administrative ways used to curb the work of the media.

In the concluding session, the Chair presented 10 recommendations for a better legal framework:

- 1) OSCE commitments and other international obligations constitute a substantive body of law and practices. If transferred to the national level in good faith and to the maximum extent possible, an improved framework for freedom of the media will by definition be achieved.
- 2) Honour the spirit of the constitutionally enshrined freedom of the media, not only its letter. This means political leadership, sound legislation and an independent interpretation of the law by courts. With this we see that such concepts as rule of law or the division of powers are prerequisites also for the freedom of the media. And these are concepts which OSCE participating States have subscribed to.
- 3) Laws must be designed to proactively foster media freedom. Legislators very naturally take it as their obligation to protect citizens from crime. Just as naturally they should legislate to protect media freedom from undue limitations.
- 4) Although convergence is the rule of the day and our mobile devices are about to become our TV sets and desktop computers in one, there is still a systemic difference between print, broadcast and the new media. Print and new media are not depending on scarce resources. They are almost limitless as long as they are commercially viable. Hence, legislation needs to address the minimum. Broadcast, even with the digital dividend, remains a limited resource. Legislation in this field should aim for the optimum for the public benefit, blending outreach with diversity, educational, cultural, political and linguistic requirements. This must be considered when legislating.
- 5) No new laws are necessary for online content. The carrier of a piece of public information does not make any difference, the content does. Electronically distributed content, including media content, is already regulated by law, namely by the laws which are governing the offline world. What needed is a broader acceptance by authorities that not only the rules and responsibilities are to be naturally extended to the online world, but also the protected freedoms. As long as there is new technology there will be new journalistic formats. Any artificial exclusion (blogger, citizens’ journalism, sharing platforms) will not survive the next round of technological innovation. Legislation must

- become more flexible and more adaptive, not less, including on the lifespan of any given law.
- 6) Freedom first, responsibility as a consequence - not the other way round. International obligations bind governments to proactively support media freedom. The often pronounced formula that media have to show a certain degree of responsibility before more freedom can be granted is not acceptable. It is wrong by concept and also does not stand any reality check. The best, and arguably more mature media, are found in those countries which have a deeply rooted media freedom tradition. No example worked the other way round.
 - 7) Oversight bodies for media must be independent. All governments know that they cannot always resist the temptation of interfering with media. In order to keep this temptation at bay, there is only one way: independent regulatory authorities. There are plenty of best practices for this, and my office stands ready to help in promoting it.
 - 8) No legal framework is operating outside of a societal context. The culture of living up to media freedom is also important. This should be taken into account, when legislation is initiated. Not all issues need the same degree of legislative devotion or attention in all countries.
 - 9) Some domains are so complex that the more detailed the legislation the better the results. Health of people, food and medical provisions might be of that nature. Media are not. The litmus test should always be: is this legislation really needed? And if yes, how can it be designed to be the least intrusive?
 - 10) Nobody can be expected to do everything at the same time. It is ok to go step by step. But the OSCE participating States need to go ahead.

b. KEY RECOMMENDATIONS TO THE PARTICIPATING STATES

- Ensure that national media laws are in line with international standards and OSCE commitments and are implemented in good faith; guarantee press freedom through an independent judiciary;
- Reaffirm and fully implement the commitments related to freedom of the media and freedom of expression;
- Ensure that journalists can work in a safe enabling environment, without undue restrictions, and stop impunity for perpetrators of criminal attacks against journalists;
- Ensure that restrictions of the freedom of expression are only imposed in exceptional cases, strictly complying with international standards;
- Ensure that the laws allow for a pluralistic media environment, independent from the technology used to disseminate information;
- States should aspire to have a constitutional embodiment of freedom of expression and freedom of the media, as a way to ensure that subsidiary legislation can be measured against the constitutional requirement;
- Recognize the problems relating to media freedom instead of denying them;
- Give freedom to the media before expecting responsibility from it;
- Update and strengthen existing commitments to reflect technological developments;
- Release all imprisoned journalists and bloggers, protect journalistic activities from an inappropriate application of criminal law, ensure the safety of journalists and other actors exercising their right to freedom of expression;
- Decriminalize defamation and libel;
- Enact legislation to allow journalists keep their sources of information confidential.

c. KEY RECOMMENDATIONS TO THE OSCE, ITS INSTITUTIONS AND FIELD OPERATIONS

- Monitor the situation in participating States, including trial monitoring and assessment through its competent institutions;
- Continue support to improve the media freedom legal framework and its implementation through its institutions and field operations;
- Use the tool of country visits of the Representative on Freedom of the Media to draw attention to major challenges relating to the freedom of the media;
- The OSCE should conduct a survey among all participating States on practice in relation to defamation;
- The RFOM should continue to assist participating States in achieving full implementation of their commitments;
- The RFOM should continue to elaborate on how comprehensive and non-discriminatory access to information can be ensured;
- The RFOM should continue to develop freedom of new media, including Internet and digital broadcasting, as a focus area;
- The RFOM should continue to co-operate with other regional and international organizations such as the Council of Europe or the United Nations;
- The RFOM should consider a position of no tolerance for political prisoners or imprisoned journalists;
- The OSCE should urge public broadcasters to allot more time to investigative journalism;
- The OSCE in general and the RFOM in particular should more actively promote best practices.

II. AGENDA AND ORGANIZATIONAL ASPECTS

The Seminar on Media Freedom Legal Framework was organized in Warsaw on 13 – 15 May 2013 by the OSCE Office for Democratic Institutions and Human Rights and OSCE Representative on Freedom of the Media in co-operation with the 2013 Ukrainian Chairmanship of the OSCE, in accordance with OSCE Permanent Council Decisions No. 1078 of 2 April 2013 and 1082 of 9 May 2013.

This was the 29th event in a series of specialized Human Dimension Seminars organized by ODIHR further to the decisions of the CSCE Follow-up Meetings in Helsinki in 1992 and in Budapest in 1994. The previous Human Dimension Seminars were devoted to: Tolerance (November 1992); Migration, including Refugees and Displaced Persons (April 1993); Case Studies on National Minorities Issues: Positive Results (May 1993); Free Media (November 1993); Migrant Workers (March 1994); Local Democracy (May 1994); Roma in the CSCE Region (September 1994); Building Blocks for Civic Society: Freedom of Association and NGOs (April 1995); Drafting of Human Rights Legislation (September 1995); Rule of Law (November /December 1995); Constitutional, Legal and Administrative Aspects of the Freedom of Religion (April 1996); Administration and Observation of Elections (April 1997); Promotion of Women's Participation in Society (October 1997); Ombudsman and National

Human Rights Protection Institutions (May 1998); Human Rights: the Role of Field Missions (April 1999); Children and Armed Conflict (May 2000); Election Processes (May 2001); Judicial Systems and Human Rights (April 2002); Participation of Women in Public and Economic Life (May 2003); Democratic Institutions and Democratic Governance (May 2004); Migration and Integration (May 2005); Upholding the Rule of Law in Criminal Justice Systems (May 2006); Effective Participation and Representation in Democratic Societies (May 2007); Constitutional Justice (May 2008); Strengthening the Rule of Law in the OSCE Area, with a special focus on the effective administration of justice (May 2009); Strengthening Judicial Independence and Public Access to Justice (May 2010); Role of Political Parties in the Political Process (May 2011); and The Rule of Law Framework For Combating Trafficking in Human beings (2012).

The Annotated Agenda of the Seminar is supplied in Annex I. The Seminar was opened on Monday 13 May 2012 at 10:00 and closed on Wednesday 15 May 2012 at 17:00. All plenary and working group sessions were open to all participants. The closing plenary session in the afternoon of 15 May focused on practical recommendations emerging from three working groups. The plenary and working group sessions took place in accordance with the Work Programme. The OSCE Representative on Freedom of the Media, Dunja Mijatović chaired the opening plenary and the closing plenary session of the Seminar. The Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (PC.DEC/476) were followed, *mutatis mutandis*, at the Seminar. The guidelines for organizing OSCE meetings (PC.DEC/762) were also taken into account. Discussions were interpreted into all six working languages of the OSCE.¹

III. PARTICIPATION

The Seminar was attended by 134 participants, including 77 representatives of 38 OSCE participating States, and 4 representatives of 2 international organizations (Council of Europe and the UN Office of the High Commissioner for Human Rights). The Seminar was also attended by 3 representatives of 3 OSCE Field Operations (OSCE Centre in Bishkek, OSCE Mission in Kosovo, and OSCE Office in Yerevan). 40 representatives of 34 NGOs took part as well.

IV. SUMMARY OF PROCEEDINGS

Mr. Douglas Wake, First Deputy Director of ODIHR, opened the Seminar. Welcoming remarks were made by Ms. Dunja Mijatović, OSCE Representative on Freedom of the Media. On behalf of the Ukrainian Chairmanship the opening statement was delivered by Ambassador Ihor Prokopchuk, Chairperson of the OSCE Permanent Council and Permanent Representative of Ukraine to the OSCE. Other opening statements included statements of Ms. Krystyna Żurek, Director of the United Nations and Human Rights Department of the Ministry of Foreign Affairs, Republic of Poland; and Ms. Isabel Santos, Vice-Chair of the Committee on Democracy, Human Rights and Humanitarian Questions of the OSCE Parliamentary Assembly.

¹ According to paragraph IV.1(B)1. of the OSCE Rules of Procedure (MC.DOC/1/06), working languages of the OSCE are English, French, German, Italian, Russian, and Spanish.

The keynote speech was delivered by Dunja Mijatović, OSCE Representative on Freedom of the Media. Her main message to the participants was that when it comes to promoting fundamental freedoms, such as free media and free expression, the simple rule is that “those who govern least, govern best.” She noted that constitutions need to expressly state that the rights of free expression and free media are inherent rights to be fully exercised by all members of society. She also emphasized that there is good legislation and bad legislation. Throughout the OSCE region there is too much bad legislation – often filled with ill-defined or loosely defined terms that allow for selective and discriminatory application of laws – often against media freedom, which requires the immediate attention of the governments. The speaker also noted that there must be proper and appropriate interpretation of laws, which demands an independent judiciary free from political and economic bias. And when those laws are interpreted, the judgments must be enforced – fairly – and with all deliberate speed by government authorities charged with those duties.

She reminded participants that, in commitment after commitment signed or agreed to when becoming part of this organization, the OSCE participating States have promised to allow, grow and foster the environment conducive to free media and free expression. It is the obligation of each OSCE participating State, she noted, to recognize and implement these commitments as part of its national legal framework.

During the plenary sessions several participating States made statements. It was noted that media freedom challenges exist in every participating State. Besides the enormous benefits of the Internet, one delegation noted that it is also used to promote extremism and spread hatred.

One delegation suggested to find consensus about terminologies and noted that any rights also carry responsibilities. Other delegations noted that in the age of New Media freedom of expression must be safeguarded and promoted both online and offline and digital media freedom should be considered in the context of universal human rights and OSCE commitments.

Many participating States condemned restrictions on the Internet and violence, harassment and attacks on journalists, as well as their criminal prosecution and imprisonment. Some delegations emphasized that better implementation of existing laws should be the main issue; not the creation of additional legislation. One delegation noted that there should be no distinction between social activists and bloggers because they all are exercising their right to free expression. One delegation noted that security concerns should be addressed without restricting human rights.

As a side event during the Seminar, ODIHR’s Democratic Governance and Gender Unit organized a “Women’s Power Lunch: Reflecting or Distorting Reality? – The Impact of the Media on Women’s Political Participation.” The schedule description provided by the organizers of the side event is available at <http://www.osce.org/odihr/101300>.

Working group I: International framework for media freedom

Introducer: **Prof. Kaarle Nordenstreng**
Professor Emeritus, University of Tampere, Finland

Moderator: **Mr. Taras Shevchenko**
Director of the Kyiv Media Law Institute (MLI), Member of the Public Council under the Ministry of Justice, Secretary of the Public Council under the Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information

Rapporteur: **Ms. Katharina Stoffl**
Political Adviser, Swiss Delegation to the OSCE

Professor Kaarle Nordenstreng from the University of Tampere, Finland, introduced the topic of Working Group I: International framework for media freedom. In the first part of his intervention, he shed light on the historical evolution of the international framework for media freedom, starting in the early 20th century with the League of Nations, which had already dealt with questions of media freedom, journalists and responsibility. He drew attention to the fact that since the adoption of the 1948 UN Universal Declaration of Human Rights (UDHR) and the 1966 International Covenant on Civil and Political Rights (ICCPR) – with their famous Article 19 – many of the debated issues had remained the same. In the 1960s, the movement of the non-aligned countries requested a new world order, including in terms of a new information and communication order, thus launching a discussion on the true nature of the free flow of information. In the 1975 Helsinki Final Act, a package deal was brokered, combining ‘hard’ topics of international law with the issue of freedom of the media, which thus became acknowledged as an integral part of international relations. In the second part of his introduction, Professor Nordenstreng highlighted two key elements of Article 19 of the UDHR and the ICCPR, as well as the respective Article 10 of the European Convention on Human Rights: first, the subject of the freedom of expression is “everyone” – the beneficiary is the individual, the citizen. Neither media nor journalists are mentioned, their role is to assist and facilitate the individual’s exercise of this right. Second, the exercise of the freedom of expression “carries with it duties and responsibilities.” This, he said, reminded of the fact that freedom was not absolute but always included the consideration of responsibility. In conclusion, the introducer underlined that a new notion of the media ecosystem, including Internet and digitalization, did not necessarily shake the philosophical and legal foundation of media and communication. Looking at the new platforms which are used for disseminating information, it would be sufficient to apply the already existing rights and duties. Taking the lessons of history, Professor Nordenstreng stated, this should help to overcome conflicts on new notions of the media.

After the introduction, 12 interventions were delivered. 9 interventions were made on behalf of non-governmental organizations, 3 came from participating States. One delegation exercised its right of reply.

In the discussion, a number of participants emphasized that freedom of speech was a universal right and thus not limited to journalists. They reiterated that, according to the international legal framework, the public had a right to be informed. While international standards for freedom of expression, free media and information were rated as important, many speakers also highlighted the need to ensure full implementation of those provisions. It was stressed that those standards and the need to put them into practice were applicable to all platforms (print media, radio, television and internet) alike.

Many interventions referred to Article 19 of the UDHR and the ICCPR, which had to be fully respected. A number of delegations added that restrictions on the freedom of expression had to be interpreted narrowly. One delegation stated that in some participating States the focus on restrictions rather than on freedoms was too strong. A number of participants mentioned the UN Human Rights Council Resolutions on the Safety of Journalists and on the promotion, protection and enjoyment of human rights on the Internet as recent landmark documents, whose example should also inspire the OSCE's work in that field.

Some participants brought forward the view that the conditions for media freedom in the OSCE area were deteriorating. Numerous cases of threats, intimidation, violence, arbitrary court proceedings and sentences against journalists and media professionals in several participating States were mentioned by non-governmental organizations. One NGO reported about a tendency of government-driven concentration of the media in one participating State. Some criticized that the OSCE did not show engagement and its institutions did not have the instruments necessary to deal with the abovementioned issues.

A group of delegations highlighted that threats and intimidation against journalists remained a worrying trend in the OSCE area. They stated that this had a chilling effect on freedom of the media on a larger scale. Others supported the view that impunity for perpetrators was a major problem that governments should tackle. A number of delegations pointed out that without an independent judiciary, even the best laws would be void. Furthermore, the arbitrary interpretation of vaguely drafted laws had, according to a group of delegations, adverse effects on free speech.

A number of interventions also touched upon the question of decriminalizing defamation, which was still not carried out in numerous participating States, and highlighted the dangers that criminal defamation charges posed to free expression.

One NGO pointed out the risks and challenges relating to the increasing use of the Internet and in that context the necessity to ensure that the quality standards of information were kept.

Recommendations to the participating States:

- Ensure that national media laws are in line with international standards and OSCE commitments and are implemented in good faith;
- Ensure that journalists can work in a safe enabling environment, without undue restrictions, and stop impunity for perpetrators;
- Ensure that restrictions of the freedom of expression are only imposed in exceptional cases, strictly complying with international standards;
- Ensure that the laws allow for a pluralistic media environment, independent from the technology used to disseminate information.

Recommendations to the OSCE, its institutions and field operations:

- Monitor the situation in participating States, including trial monitoring and assessment through its competent institutions;
- Follow trends and challenges relating to the use of online platforms, in particular as regards the quality of the information displayed;
- Continue support to improve the media freedom legal framework and its implementation through its institutions and field missions;
- Use the tool of country visits of the Representative on Freedom of the Media to draw attention to major challenges relating to the freedom of the media.

Working Group II: National frameworks for media freedom – best practices

The Working Group met in two sessions, in the morning and afternoon. This report groups interventions made during both sessions into thematic groupings, rather than into chronological order.

Introducer for the morning session:

Prof. Nico van Eijk
Professor of Media and Telecommunications Law, Director of the Institute for Information Law (IViR), Faculty of Law, University of Amsterdam

Moderator for the morning session:

Mr. Dainius Radzevičius
TV and radio journalist and spokesperson, Chairman of the Union of Journalists of Lithuania

Introducer for the afternoon session:

Ms. Helena Mandić
Director of Broadcasting, Communications Regulatory Agency, Bosnia and Herzegovina

Moderator for the afternoon session:

Mr. Jan Malinowski
Head of Information Society Department, Directorate General of Human Rights and Rule of Law, Council of Europe

Rapporteur for both sessions:

Mr. Patrick O'Reilly
First Secretary, Permanent Mission of Ireland to the OSCE

The first introducer, Professor Nico van Eijk of the University of Amsterdam, stressed the importance of every participating State examining critically whether it is honestly and fully implementing its international commitments in the area of media freedom. He noted that best practices can sometimes be used to disguise the fact that national systems are not working properly and warned against viewing them as a panacea, which can lead to complacency. He further underlined that while it is relatively easy to highlight problems in other countries, it is necessary for states to look inward at their own performance. To demonstrate his point, he listed a number of examples from his own country, which rates very highly in free media

rankings, where the European Court of Human Rights had ruled against efforts by the authorities to get information from journalists.

The second introducer, Ms. Helena Mandić of the Communications Regulatory Agency of Bosnia and Herzegovina, described the experience of her country in developing a working regulatory system in a post-Communist and post-war context, and highlighted more recent challenges in this area of work. She stressed that the ongoing involvement, monitoring and input of the international community played an important part in pushing through necessary but difficult changes and noted that the emergence of new challenges and a slowing down of progress had coincided with a waning level of international interest in Bosnia and Herzegovina.

12 speakers spoke after the first introducer, with a further 13 interventions after the second introducer. The discussion was wide ranging, and a large number of issues were raised. However, the key issues on which the majority of speakers focused were the decriminalization of defamation, restrictive measures taken against journalists, the need for engagement and debate between all parts of society when discussing issues related to media freedom and the relationship between freedom of expression and accessing information, including information about ownership of media companies.

Speakers noted that while decriminalization of defamation is a positive step for any country to take, it does not necessarily resolve all issues, since the burden of proof in civil law is usually lower than in criminal cases and fines or awards made by civil courts can be extremely high. Indeed, the threat of such civil or administrative sanction can sometimes be as destructive in curbing media freedom as the threat of imprisonment. One delegation noted its own recent legislative efforts, following decriminalization of defamation, to improve its libel laws with the aim of both giving more opportunity for people to publish their views without threat of being taken to court, as well as to more effectively protect privacy and reputation. Several speakers suggested that public figures such as politicians should be subject to higher levels of scrutiny than private citizens.

A number of speakers highlighted individual cases of concern in a number of participating States, and in so doing, raised awareness of some of the administrative and bureaucratic methods that can be used to curb media freedom, from withdrawing accreditation to harassment of journalists using the tax code or tax audits and from state monopolization of printing materials to using financial requirements to limit media access by minority groups.

A large number of speakers focused on the need for all parts of society to be involved in debating media freedom issues. The link between such debate and the broader issues of education and empowerment was highlighted as an enabler that brought benefits across a range of different aspects of the media freedom dossier, from enhancing pluralism and diversity within society, to helping to strike a balance between privacy and freedom of expression, advancing child protection, combating hate speech and ensuring that the media is not misused to damage interethnic relations. Several speakers suggested that the role of government in these discussions should be kept to an absolute minimum. As a corollary to this, numerous speakers underlined that regulation should be seen as a last resort and even then subject to strict stress testing that ensured that any restrictions placed on journalists were absolutely necessary and clearly defined. In this regard, some of the speakers noted that true media freedom presupposes the existence of an effective and independent judiciary which can properly and fairly examine such restrictions.

The vital link between access to information and freedom of expression was underscored in a number of interventions, with several speakers providing best practice examples from their own countries. One speaker highlighted that in a democracy, it is citizens that should monitor, observe and judge the thoughts and actions of the governments, it is not the governments who should monitor, observe and judge the thoughts and actions of their citizens. A number of speakers also touched on the issue of transparency of media ownership, highlighting the importance of accessing company information to ensure pluralism within the overall media landscape.

Recommendations to participating States:

- National frameworks should ensure that the role of the ministry of information or communication is clearly defined, should include an adequate legal framework on freedom of expression, should include an adequate regulatory system for broadcasting, should provide for a pluralistic and independent media, should avoid censorship and should ensure that defamation is decriminalized and any restrictions should be clearly and narrowly defined in law;
- Any restrictions to freedom of expression should be subject to rigorous stress testing to ensure they are justified and necessary;
- States should aspire to have a constitutional embodiment of freedom of expression and freedom of the media, as a way to ensure that subsidiary legislation can be measured against the constitutional requirement;
- All OSCE participating States should seek to meet the standards set in the Council of Europe Convention on Access to Official Documents;
- All participating States are encouraged to follow the good practice of establishing an independent Information Commissioner (Ombudsman);
- Regulatory authorities should include a post of freedom of expression officer to ensure that the issue is embedded throughout the work of the authority;
- Governments should ban the sale of equipment and technology that can be used for unwarranted surveillance or for restricting access to information to countries where such practices take place.

Recommendations to the OSCE, its institutions and field operations:

- The OSCE should enhance its monitoring of implementation of commitments by participating States;
- The OSCE should conduct a survey among all participating States on practice in relation to defamation.

<p style="text-align: center;">Working Group III: Implementation of existing OSCE commitments</p>
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Introducers: **Ms. Dunja Mijatović**
OSCE Representative on Freedom of the Media

Ms. Helen Darbshire
Founder and Director, Access Info Europe, Spain

Moderator: **Mr. Boris Navasardian**
President of the Yerevan Press Club, Armenia

Rapporteur: **Mr. Umut Topçuoğlu**
Counsellor, Permanent Mission of Turkey to the OSCE

Ms. Dunja Mijatović, OSCE Representative on Freedom of the Media, as the first introducer, elaborated the topic of Working Group 3: Implementation of existing OSCE commitments. She started by expressing her disappointment with the statements made by many participating States during previous sessions of the Seminar, in which they chose to deny the existence of problems regarding media freedom rather than acknowledging them. She stressed that mere co-operation by participating States with the Office of the RFOM was not sufficient in itself and that recognition of the problematic issues was also necessary. She underlined that the statements made by journalists and non-governmental organizations (NGOs) clearly indicated the presence of problems in the field of media freedom and freedom of expression in the OSCE area, and that her own reports, of which the next would be published in June, confirmed this fact. She emphasized the need to transform the principles enshrined in the 2010 Astana Commemorative Declaration into action, pointing out that according to UNESCO more journalists had been killed worldwide than ever before, that the problem of impunity persisted with the perpetrators and masterminds of crimes against journalists not being brought before justice, that since the OSCE Astana Summit at least 270 members of the media had been detained or jailed in more than a dozen participating States, that at least 140 members of the media had been assaulted across the OSCE region. She indicated that safeguarding and supporting media pluralism remains a major challenge, with governments across the OSCE region considering new measures to stifle Internet freedom despite her calls to reduce legislation of Internet content. She emphasized that though communications technologies might have progressed in the last 15 years, the essential principles concerning freedom of expression and the media remained the same and that individuals should enjoy equal protection and support in the exercise of this right online as well as offline. She stressed that it was her duty as RFOM to safeguard expression in all its forms, no matter what medium used for dissemination. In the remainder of her presentation Ms. Mijatović touched upon specific topics which participating States should focus on when deliberating reform steps to bring their legislation in line with the OSCE commitments. In this context she briefly dwelled on press laws, public service broadcasting as well as independent and/or commercial broadcasters, the digital terrestrial switchover, the decriminalization of defamation and libel, retaining the free nature of Internet, access to information, the role of investigative journalism in controlling government action, the abuse of security related legislation as a pretext for impeding freedom of the media, ensuring the safety of journalists, support for the proper implementation of media self-regulation and the need to prevent administrative harassment. The RFOM concluded by stating her firm belief that freedom must be given to the media before expecting responsibility from it.

Ms. Helen Darbshire, Founder and Director of Access Info Europe, as the second introducer, pointed out the important role of the RFOM and her team in addressing challenges to media freedom. She underlined that the OSCE commitments in this area are a body of affirmations of the core democratic value of the fundamental freedom of expression. Emphasizing that freedom of speech was described as one of the highest aspirations of humankind as early as

1948 in the Universal Declaration of Human Rights (UDHR), she explained how the OSCE process converts universal human rights into freedoms which work in day-to-day practice, recognizing the diversity of participating States but never forgetting the fundamental anchor provided by human rights. She stated that any attempt by participating States to reopen commitments to negotiation was a serious cause for concern. She drew attention to the fact that while our interpretation of how to implement the OSCE commitments may continue to change, the framework given by the commitments does not, and that the passage of time should not be used as an excuse to interpret some commitments narrowly, for example in the case of modern technologies. Turning to the roles of the OSCE and the RFOM in promoting freedom of the media, Ms. Darbshire highlighted the Representative's function in monitoring and raising concerns and the OSCE's function in promoting the relevant the commitments through debate. She stressed that a third role for the OSCE could be a more active promotion of best practices, including proactive publication of information by governments and transparency with regard to media ownership.

After the introductions, 9 interventions were delivered. 4 interventions were made on behalf of participating States, 5 came from non-governmental organizations (NGOs) and representatives of international organizations. 8 delegations exercised their right of reply, some of them also with regard to interventions made the previous day during Working Session 2.

In the discussion, one delegation emphasized governments' responsibility under international law and OSCE commitments to protect freedom of expression, mentioning in this context various cases in different participating States involving unresolved murders of journalists, intimidation and violence against journalists, impunity, the use of anti-terrorism, anti-extremism or incitement laws to intimidate, harass, prosecute and imprison journalists, the criminalization of defamation, restrictive Internet management and strong censorship without a court order. The same delegation underlined the inherent right of all persons to exercise freedom of expression through traditional media and new technologies, as well as the vital role of media in advancing democratic principles.

Another delegation informed the participants of recent positive developments with regard to media freedom in their country.

One NGO criticized the accusations of non-professionalism against journalists in a participating State and urged government authorities to be more transparent.

One delegation expressed its perplexity that the Seminar had become a platform of criticism instead of serving to exchange ideas, and stated its belief that double standards were being employed.

One NGO raised the question of whether the same standards of monitoring with regard to media coverage of elections were consistently applied by the OSCE in different participating States.

Several participating States expressed their support for the mandate of the RFOM in its entirety.

Recommendations to participating States:

- Reaffirm and fully implement the commitments related to freedom of the media and freedom of expression;
- Recognize the problems relating to media freedom instead of denying them;
- Give freedom to the media before expecting responsibility from it;
- Avoid as much as possible the manipulation of commitments to promote initiatives aiming to restrict freedom of expression;
- Update and strengthen existing commitments to reflect technological developments;
- Align media laws with OSCE commitments and international standards, and implement them accordingly; guarantee press freedom through an independent judiciary;
- Release all imprisoned journalists and bloggers, protect journalistic activities from an inappropriate application of criminal law, ensure the safety of journalists and other actors exercising their right to freedom of expression;
- Act decisively to investigate all acts of violence against journalists and bring offenders to justice;
- Decriminalize defamation and libel;
- Enact legislation to allow journalists to keep their sources of information confidential;
- Apply the commitments equally to journalists who are also human rights defenders;
- Ensure the transparency of government authorities;
- Have government officials meet with independent journalists and invite them to press conferences;
- Insist in bilateral consultations that alleged crimes against journalists be investigated;
- Extend invitations to the RFOM and her Office.

Recommendations to the OSCE, its institutions and field operations:

- The RFOM should continue to assist participating States in achieving full implementation of their commitments;
- The RFOM should promote the adoption of legislation in line with OSCE commitments and other international standards;
- The RFOM should continue to elaborate on how comprehensive and non-discriminatory access to information can be ensured;
- The RFOM should continue capacity-building activities;
- The RFOM should, in co-ordination with ODIHR's Point of Contact on Human Rights Defenders, assist participating States in delivering on their commitments to protect journalists who are also human rights defenders;
- The RFOM should continue to develop freedom of new media, including Internet and digital broadcasting, as a focus area;
- The RFOM should continue to co-operate with other regional and international organizations such as the Council of Europe or the United Nations;
- The RFOM should consider a position of no tolerance for political prisoners or imprisoned journalists;
- The RFOM should be more actively involved in so-called 'no-go zones' in the OSCE area and raise awareness of the threats journalists there face;
- The OSCE in general and the RFOM in particular should promote best practices even more actively;
- The OSCE should urge public broadcasters to allot more time to investigative journalism.

ANNEX I: ANNOTATED AGENDA

2013 OSCE HUMAN DIMENSION SEMINAR

Media Freedom Legal Framework

Warsaw, 13-15 May 2013

I. Introduction

Human Dimension Seminars are organized by the OSCE/ODIHR pursuant to the CSCE Summit decisions in Helsinki (1992) and Budapest (1994). The 2013 Human Dimension Seminar is devoted to the Media freedom legal framework in accordance with PC Decisions No. 1078 of 2 April 2013 and 1082 of 9 May 2013.

OSCE participating States have agreed on numerous commitments on media freedom in the last almost four decades. In 1975, in the Helsinki Final Act, the participating States confirmed the right of the individual to know and act upon his rights and duties, and stressed the universal significance of human rights and fundamental freedoms.

In the 38 years following the Helsinki Final Act, the Conference on Security and Co-operation in Europe and, now, the OSCE, continued to build a legacy of support for free media. In 1994 in Budapest the participating States reaffirmed that free expression is a fundamental human right and a basic component of a democratic society, and they took it as their guiding principle that they would safeguard this right. At the same meeting they also agreed to condemn all attacks on and harassment of journalists and endeavour to hold those directly responsible for such attacks and harassment accountable.

Five years later, in 1999 in Istanbul the participating States reaffirmed the importance of independent media and the free flow of information as well as the public's right to access information and committed themselves to take all necessary steps to ensure the basic conditions for free and independent media. The Ministerial Council in 2004 in Sofia concluded by the participating States agreeing to ensure that the Internet remains an open and public forum for free expression and free opinion. More recently, at the Ministerial Council in 2012 in Dublin, participating States recognized that "freedom of information and access to information foster openness and accountability in public policy and procurement, and enable civil society, including the media, to contribute to preventing and combatting corruption, the financing of terrorism, and money-laundering and its predicate offences."

The Human Dimension Seminar will provide a platform for an exchange of views among different stakeholders on key aspects of the rule of law framework for media freedom. The OSCE participating States and other stakeholders will be able to share best practices and challenges in the area of media law and policy, as well as strategies for better enforcement and implementation of OSCE commitments on the national level.

II. Aims

The Human Dimension Seminar aims to serve as a platform for exchanging good practices between the participating States on the issues related to the media freedom legal framework. It will also provide an opportunity to discuss how monitoring efforts and reform processes could benefit from such exchanges of good practices. The discussions will be structured in three Working Groups as outlined in the Work Plan below.

III. Participation

Representatives of the OSCE participating States, OSCE institutions and field operations, inter-governmental and non-governmental organizations will take part in the Seminar.

Participation of experts on various elements related to its topic such as but not restricted to access to information, free expression, safety of journalists will be particularly encouraged. In this regard, participating States are requested to publicise the Seminar within expert communities and in academic circles focused on media law and policy and the rule of law and to include in their delegations, wherever possible, experts on relevant issues.

The Mediterranean Partners for Co-operation and the Asian Partners for Co-operation are invited to attend and share their views and ideas on the media freedom legal framework.

All participants are encouraged to submit in advance written interventions outlining proposals regarding the subject of the Seminar, which will be distributed to the delegates. Participants are also encouraged to make brief oral interventions during the Seminar. While prepared interventions are welcomed during the plenary session, free-flowing discussion and exchanges are encouraged during the Working Group sessions.

IV. Organization

The Seminar venue is Sofitel Victoria Hotel, Ul. Krolewska 11, Warsaw.

The Seminar will open on Monday, 13 May 2013, at 10 a.m. It will close on Wednesday, 15 May 2013, at 6 p.m.

All plenary sessions and working group sessions will be open to all participants. The plenary and working group sessions will take place according to the Work Programme below.

Three working groups will be held consecutively. They will focus on the following topics:

1. International framework for media freedom
2. National frameworks for media freedom – best practices
3. Implementation of existing OSCE commitments

The closing plenary session, scheduled for the afternoon of 15 May 2013, will focus on practical suggestions and recommendations for addressing the issues discussed during the working group sessions.

A representative of ODIHR will open the Seminar and the OSCE Representative on Freedom of the Media will chair the plenary sessions.

The Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (Permanent Council Decision No. 476) will be followed, *mutatis mutandis*, at the Seminar. Also, the guidelines for organizing OSCE meetings (Permanent Council Decision No. 762) will be taken into account.

Discussions during the Plenary and Working Group sessions will be interpreted from and into the six working languages of the OSCE.

Registration will be possible during the Seminar days from 8:00 until 18:00.

By prior arrangement with the OSCE/ODIHR, facilities may be made available for participants to hold side events at the Seminar venue. A table for display/distribution of publications by participating organizations and institutions will also be available.

WORK PROGRAMME

Working hours: 10 a.m. – 1 p.m. and 3 – 6 p.m.

	Monday 13 May 2013	Tuesday 14 May 2013	Wednesday 15 May 2013
Morning	Opening plenary	Working group II	Working group III
Afternoon	Working group I	Working group II	Closing plenary

V. WORK PLAN

13 May 2013, Monday

10:00-13:00 Opening Plenary Session

Opening remarks by ODIHR:

Mr. Douglas Wake
First Deputy Director, ODIHR

Welcoming remarks and introduction from the Seminar Chair:

Ms. Dunja Mijatović
OSCE Representative on Freedom of the Media

Opening statements:

Ambassador Ihor Prokopchuk
Chairperson of the OSCE Permanent Council
Permanent Representative of Ukraine to the OSCE

Ms. Krystyna Żurek
Director of the United Nations and Human Rights Department
Ministry of Foreign Affairs, Republic of Poland

Ms. Isabel Santos

Vice-Chair of the Committee on Democracy, Human Rights and Humanitarian Questions
OSCE Parliamentary Assembly

Keynote Speaker:

Ms. Dunja Mijatović

OSCE Representative on Freedom of the Media

Statements by delegations

15:00-18:00 Working group I: International framework for media freedom

Introducer:

Prof. Kaarle Nordenstreng

Professor Emeritus, University of Tampere, Finland

Moderator:

Mr. Taras Shevchenko

Director of the Kyiv Media Law Institute (MLI), Member of the Public Council under the Ministry of Justice, Secretary of the Public Council under the Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information

Rapporteur:

Ms. Katharina Stoffl

Political Adviser, Swiss Delegation to the OSCE

- Existing international frameworks for freedom of expression and freedom of the media;
- The right to freedom of expression, including the right of the media to collect, report and disseminate information, news and opinions, and the restriction in the exercise of this right in accordance with international law and international standards;
- Media freedom, access to information and protection of privacy;
- Terminology on freedom of the media and freedom of expression adopted by relevant international organizations: best practices.

Participants in this working group will discuss international (including regional) instruments to ensure the freedom of the media to perform its essential role for democracy and for the right of the public to have access to information. Best international models for providing the right of the media to collect, report, and disseminate information, news and opinions will be reviewed. Recent decisions and recommendations adopted by the UN and Council of Europe bodies, as well as other international organizations, will give food for thought on contemplating the legal and political challenges to media freedom and freedom of expression in the OSCE region. As media freedom and freedom of information are sometimes competing with the need to protect other human rights such as the right to privacy there is a need to discuss international standards on how to balance those rights.

Questions to be addressed in this session could include:

- What are the most recent instruments suggested by the international organizations to promote media freedom and freedom of expression in the 21st century?
- What are the new challenges to the profession of journalist?
- What legal and political obstacles still prevent the media from obtaining, reporting and disseminating information, news and opinions in accordance with international law and international standards?
- Which OSCE commitments in the sphere of freedom of expression and freedom of the media are to be considered in national policy-making? What constitutes the enabling environment for the freedom of expression in the OSCE region?
- What is the new notion of the media, including the latest contributions by the Council of Europe?

14 May 2013, Tuesday

10:00-13:00 Working Group II: National frameworks for media freedom – best practices

Introducer: **Mr. Nico van Eijk**
Professor of Media and Telecommunications Law, Director of the Institute for Information Law (IViR), Faculty of Law, University of Amsterdam

Moderator: **Mr. Dainius Radzevičius**
TV and radio journalist and spokesperson, Chairman of the Union of Journalists of Lithuania

Rapporteur: **Mr. Patrick O'Reilly**
First Secretary, Permanent Mission of Ireland to the OSCE

15:00-18:00 Working Group II: National frameworks for media freedom – best practices (continued)

Introducer: **Ms. Helena Mandić**
Director of Broadcasting, Communications Regulatory Agency, Bosnia and Herzegovina

Moderator: **Mr. Jan Malinowski**
Head of Information Society Department, Directorate General of Human Rights and Rule of Law, Council of Europe

Rapporteur: **Mr. Patrick O'Reilly**
First Secretary, Permanent Mission of Ireland to the OSCE

- Existing national frameworks for freedom of expression and freedom of the media;
- Safety of journalists;
- Voluntary professional standards for journalists: best practices;
- Public and private sources of information: respect for professional confidentiality of journalists;
- Safeguarding interests of minors in the sphere of media.

The two sessions devoted to Working Group II will allow experts to discuss national frameworks on such issues as safety of journalists, including attacks against and harassment of journalists; countering hate speech while ensuring media freedom – the range of responses across the OSCE; protecting the confidential sources of journalists; safeguarding of fundamental freedoms online; transparency of media ownership; plurality of the media; wide public access to information; respect for the honour and dignity of citizens, as well as protecting children from harmful content.

Questions to be addressed in this session could include:

- What legal instruments enable safety of journalists?
- How protection of sources and working places of the journalists from unwarranted police searches is implemented in the national law and court decisions?
- What is the relation between media concentration, state ownership of the media and pluralism?
- Why and how does transparency of media ownership benefit the public?
- What is the best practice in preserving media freedom while combating hate speech and protecting interests of children?
- How can increased professionalism of those working in the media contribute to media freedoms?
- What is the importance of decriminalizing defamation for freedom of the media?

15 May 2013, Wednesday

10:00-13:00 Working Group III: Implementation of existing OSCE commitments

Introducers: **Ms. Dunja Mijatović**
OSCE Representative on Freedom of the Media

Ms. Helen Darbshire
Founder and Director, Access Info Europe, Spain

Moderator: **Mr. Boris Navasardian**
President of the Yerevan Press Club, Armenia

Rapporteur: **Mr. Umut Topçuoğlu**
Counsellor, Permanent Mission of Turkey to the OSCE

- Implementation and follow-up of commitments in the area of freedom of expression, including freedom of the media;
- Practical steps to guarantee the right to freedom of expression, including the right of the media to collect, report and disseminate information;
- Challenges in the implementation of the existing OSCE commitments.

The session will review implementation practices related to the current OSCE commitments with a view toward the possible need for follow-up at a political level. It will debate the positive impact of OSCE commitments on the state of media freedom in the region as a whole and in the OSCE participating States. Harmonization of various approaches towards crucial

issues of media freedom and pluralism, freedom of expression will be sought during the discussion.

Questions to be addressed in this session could include:

- How have existing OSCE commitments on freedom of the media and freedom of expression helped to shape national legal frameworks?
- Which procedures are in place at the national level to ensure that freedom of the media and freedom of expression are compliant with the rule of law and human rights (including judicial review and appeal mechanisms)?
- Which guidance exists for practitioners at the national level to ensure effective implementation of media law, and in which areas is more guidance needed?
- What challenges do participating States face in this context?

15:00-18:00 Closing Plenary Session

Rapporteurs' summaries from the Working Groups

Statements by Delegations

Concluding remarks

Ms. Dunja Mijatović

OSCE Representative on Freedom of the Media

Closing of the Seminar

ANNEX II: OPENING AND CLOSING REMARKS

OPENING REMARKS

Mr. Douglas Wake

First Deputy Director, ODIHR

Excellencies,
Distinguished guests,
Ladies and Gentlemen,

Good morning. I am Doug Wake, First Deputy Director of the OSCE Office for Democratic Institutions and Human Rights, and it is my pleasure to welcome all participants to this 2013 Human Dimension Seminar on media freedom legal framework. I greet you also on behalf of ODIHR's Director, Ambassador Janez Lenarčič, who was unfortunately unable to join us here today because he is in Sofia with our mission to observe the Bulgarian elections.

The annual Human Dimension Seminar is one of five mandated events held throughout the year, along with the Human Dimension Implementation Meeting and three Supplementary Human Dimension Meetings (SHDMs), which take place in Vienna. Last month ODIHR supported the OSCE's Ukrainian Chairmanship-in-Office in organizing an SHDM on freedom of movement and human contacts in Vienna, and we will be providing the same support for the next SHDM on the rule of law in the promotion and protection of human rights and fundamental freedoms on the 10th and 11th of July in Vienna.

Today we are particularly pleased to be here to launch the Media Freedom Legal Framework seminar and to be able to do it together with the OSCE Representative on Freedom of the Media, Dunja Mijatović.

We are also joined here today with a distinguished group of keynote speakers and moderators for each session. Their presence will set the stage for focused discussions and an inclusive dialogue with all the stakeholders present. I am also glad to be joined at this table by: Ambassador Ihor Prokupchuk of the Ukrainian OSCE Chairmanship; Ms. Krystyna Żurek, Director of the United Nations and Human Rights, Department of the Ministry of Foreign Affairs of Poland, representing our host country; and Ms. Isabel Santos, Vice-Chair of the Committee on Democracy, Human Rights and Humanitarian Questions of the OSCE Parliamentary Assembly.

Media freedom is an essential element of the broader rights to freedom of opinion and expression, as well as the freedom to receive and impart information without interference and regardless of frontiers. The right to free media is a basic human right, but it is not a right reserved only for members of the media. The right to free media is a universal and, most of all, an individual human right. It is meant to be implemented for the benefit of all of us. It is also a cornerstone of the Human Dimension and therefore a natural theme for a seminar hosted by ODIHR with our partners from the Representative on Freedom of the Media. As all OSCE participating States reaffirmed at their 2010 Summit in Astana, free media, together with civil society, play an important role in helping to ensure full respect for human rights, democracy and the rule of law.

In many ways, ODIHR and the Representative on Freedom of the Media complement each other in safeguarding some of our most basic human rights, such as free media and free expression and democratic elections. Just as an example, even before the post of Representative on Freedom of the Media was established, the OSCE participating States decided at their 1994 Budapest Summit that ODIHR would play an enhanced role in election monitoring, before, during and after elections. In this context, ODIHR was tasked "to assess the conditions for the free and independent functioning of the media." Subsequently, when the participating States adopted the mandate for the Representative on Freedom of the Media in 1997, they decided that RFoM would support ODIHR "in assessing conditions for the functioning of free, independent and pluralistic media before, during and after elections." We at ODIHR now draw heavily on the work done so effectively by RFoM to assist us in this sensitive and important task.

With this broad co-operation in mind, we are particularly pleased for ODIHR to host a Seminar together with the Representative focusing on this topic.

This seminar will provide opportunities for all of you here to exchange views, thoughts and knowledge on key aspects of the rule of law as a framework for media freedom, one of many important facets of media freedom.

I invite participating States and representatives from NGOs and media outlets and other stakeholders to share your best practices in the area of media law and policy during this seminar.

Before concluding my remarks, I would like to express my great appreciation to the Representative of the Freedom of the Media and her staff for the substantive organization of this Seminar under what I might describe as difficult conditions. Some in this room may recall that, when I addressed the final session of the 2012 Human Dimension Seminar, I observed how challenging it had been for ODIHR's staff to organize the event last year when there had been "a mere 14 working days between the adoption of the agenda and the opening of the Seminar."

I therefore note with a bit of disappointment that the agenda for the 2013 Seminar was adopted by the OSCE Permanent Council – and thus made available to the general public – only last Thursday, 9 May (which, by the way, was a public holiday in many OSCE participating States and was followed by a public holiday in some participating States). In this context I pay tribute not only to our RFoM colleagues but also to the Ukrainian Chairmanship for their tireless efforts to foster the consensus that ultimately resulted in the adoption of the agenda. It is only regrettable that, despite the best efforts of our RFoM and CiO colleagues, there was very limited scope for the participants in this Seminar to act upon it. I also express appreciation to the Chairmanship for taking the initiative to invite speakers and moderators to the Seminar in a timely manner, even in the absence of an approved agenda, and for its quick support in facilitating the issuance of the annotated agenda last Friday.

Finally, while these efforts have ensured that we now have an agenda and an annotated agenda in front of us, the fact remains that the Permanent Council decided on the agenda at such a late hour that some participants may have had no opportunity to revise their interventions on very short notice. I would stress, therefore, that no one should feel that speakers are off the mark if their prepared remarks diverge from the final version of the agenda.

With these words it is my distinct honour to declare this 2013 Human Dimension Seminar open and to invite the OSCE Representative on Freedom of the Media, Ms. Dunja Mijatović, to chair our opening plenary session.

OPENING REMARKS

Mr. Ihor Prokopchuk

Ambassador, Chairperson of the OSCE Permanent Council

Excellencies,
Distinguished participants,

I would like to warmly welcome all of you at the 2013 OSCE Human Dimension Seminar on Media Freedom Legal Framework. I am pleased to note that the seminar attracted attention of a large number of representatives from governments, media, academia and civil society.

Ukraine is strongly committed to the principles and values of the OSCE and acknowledges the important role of this Organization in promoting and strengthening security and stability of the vast region from Vancouver to Vladivostok.

The 2013 Ukrainian OSCE Chairmanship *has identified media freedom as one of its priorities for 2013*. We recognize the fundamental importance of freedom of expression, including the principles of diversity and pluralism, as a core element of democracy and an essential tool for the protection of all other rights.

Translating into reality the Astana Summit's call for the establishment of a security community requires continuous engagement, coordinated efforts and persistence in implementing our commitments. *Efficient implementation of the OSCE commitments in the area of media freedom remains an integral part of the OSCE's concept of comprehensive security*. Observance of commitments by all participating States on human rights, democracy and the rule of law is placed at the top of the Ukrainian Chairmanship's agenda.

As we all know the OSCE participating States have agreed on numerous commitments on media freedom in the last four decades. Media freedom and the free flow of information were at the heart of 1975 Helsinki Final Act. Since then, the Conference on Security and Co-operation in Europe and, later, the OSCE, continued to build upon and expand the "acquis" of support for free media.

Notably, the important role played by free media in ensuring full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law has been recognized most recently by the heads of state and government of all participating States in the Astana Commemorative Declaration of 2010.

Moreover, in December last year in Dublin the participating States recognized that freedom of information and access to information foster openness and accountability in public policy and procurement, and enable civil society, including the media, to contribute to preventing and combating corruption, the financing of terrorism, and money-laundering and its predicate offences.

As we begin this seminar it is also worth recalling that the freedoms we shall discuss in this event constitute international obligations, enshrined in many legal instruments, such as Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, Article 10 of the European Convention on Human Rights.

Yet, we have to admit that the implementation of undertaken legal obligations and political commitments, and effective ensuring of these fundamental freedoms do not happen automatically. *In our view, it requires enforceable laws, international cooperation, open dialogue and sharing best practices among the participating States*.

Despite impressive development of international standards regarding the promotion and protection of freedom of expression over the last years by international bodies and civil society actors, *a number of challenges still exist in giving full effect to the right to freedom of expression*, including government control over the media, violence against journalists, criminal defamation, limits on the right to information, discrimination in the enjoyment of the

right to freedom of expression. Apart from many traditional challenges, new challenges have arisen due to rapid technological and social developments.

Without properly addressing existing and potential challenges it is hardly possible to promote comprehensive security and, therefore, to build lasting peace and stability in the OSCE region. In our view, addressing these issues should remain high on the OSCE agenda.

Let me recall that on the World Press Freedom Day the OSCE Chairperson-in-Office, Ukrainian Foreign Minister Leonid Kozhara stressed the importance of the OSCE participating States' commitment to freedom of the media and their duty to respect and uphold the right to freedom of expression. *He also emphasized that all journalists and media workers need to work without fear, in security and safety.*

This call from the Chairman-in-Office rests on the commitments, set forth in particular in Budapest in 1994, where the participating States united to condemn all attacks on and harassment of journalists and endeavor to hold those directly responsible for such attacks and harassment accountable.

A significant work in promoting the freedom of expression across the OSCE space is carried out on a daily basis by the OSCE Representative on Freedom of the Media. In particular, this relates to the safety of journalists, both online and offline, and combating impunity.

However, more needs to be done by all of us as there will be no free media unless safety of journalists is fully ensured.

Dear ladies and gentlemen,

We live in an increasingly connected world where media performs on multiple platforms. In our view it is essential that the participating States come together to learn from one another how to develop a legislative basis most conducive to an open and pluralistic media environment which lies at the core of any functioning democracy.

Media freedom and the right to free expression have been discussed in many different contexts by different stakeholders from the very start of the process that gave life to this organization. *However, I would like to note that there have been very few events on media freedom within the OSCE, to which all participating States agreed by consensus. The Ukrainian Chairmanship considers that addressing the issue of legal framework (both international and national) to ensure media freedom would significantly contribute to strengthening the implementation of the OSCE commitments in this area.*

The Human Dimension Seminar provides an important platform for an exchange of views on key aspects of the rule of law framework for media freedom. The OSCE participating States and other stakeholders will be able to share best practices and challenges in the area of media law and policy, as well as strategies for better enforcement and implementation of OSCE commitments on the national level.

Dear colleagues,

I wish all of the participants a stimulating and practical discussion and look forward to the recommendations that will emerge in the debates at this Seminar.

I also encourage you to attend the side events and use the more informal activities of this seminar for networking, exchanging ideas and sharing experiences.

I am confident that we shall all benefit from the inclusive dialogue on this important issue during the next three days.

In conclusion, let me extend my most sincere appreciation to the OSCE Office for Democratic Institutions and Human Rights and Representative on Freedom of the Media for excellent organization of this important event.

Thank you for your attention.

OPENING REMARKS

Ms. Dunja Mijatović, OSCE Representative on Freedom of the Media

Excellencies, Ladies and Gentlemen,

It is a pleasure to welcome you today to this Human Dimension Seminar on the Media Freedom Legal Framework. I am pleased that you are here because the roles played by governments and NGOs are important in promoting media freedom and media pluralism.

Of course, I believe that when it comes to promoting fundamental freedoms, such as free media and free expression, the simple rule is that “those who govern least, govern best.”

But what do we mean when we use the term “legal framework?”

It means the entire body of law, international and national, statutory and court made, that is the *acquis* of the notions of free media and free expression.

Where do we start?

Constitutions

For sovereign states, we need to look at constitutions or other basic acts that set the broad outline of rights and relationships. And just like almost anything else, there are good constitutions and bad constitutions. One thing is certain: Constitutions need to expressly state that the rights of free expression and free media are inherent rights to be fully exercised by all members of society.

Constitutions are meant to secure only the basic rights and responsibilities of the populace. They are not detailed roadmaps that address specific issues. That’s where legislation comes in.

Legislation

And, like constitutions, there is good legislation and bad legislation. Throughout the OSCE region we see too much bad legislation – often filled with ill-defined or loosely defined terms that allow for selective and discriminatory application of laws – often against media freedom.

Define hooliganism. Define extremism. Show me statutes with those words and I'll show you a country where there are honest, hard-working reporters behind bars.

Implementation

We know that statutes do not exist in a vacuum. There must be proper and appropriate interpretation of laws. That demands an independent judiciary free from political and economic bias.

Well-written laws are little more than empty promises when interpreted by courts that are beholden to one person or one party.

And when those laws are interpreted, the judgments must be enforced – fairly – and with all deliberate speed by government authorities charged with those duties.

The *acquis* consists of international laws, too, which nations voluntarily agree to follow. Some participating States are bound by Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention on Human Rights. But all participating States are bound by OSCE Commitments.

Participating States have promised to allow, grow and foster an environment conducive to free media and free expression in commitment after commitment that they have signed or agreed to when becoming part of this organization. It is the obligation of each OSCE participating State to recognize and implement these commitments as part of its national legal framework.

And that is where I come in.

My job is to observe how all participating States are complying with or implementing those commitments and promote compliance with them.

How? By making certain themes the building blocks of my Office's work.

Please consider these initiatives of my Office:

1. Journalists' safety

As noted in the Budapest Summit of 1994, the participating States “condemn all attacks on and harassment of journalist and will endeavour to hold those directly responsible for such attacks and harassment accountable.”

Since this Office was established in 1997, 100 journalists have lost their lives in the OSCE region, the vast majority by criminal act. My predecessor referred to this as “censorship by murder.” It continues today. And Murder is only one of a variety of methods used to censor the media. Physical attacks, mental intimidation and financial pressure is applied to journalists throughout our region. I raise attention to this issue and recommend ways to eliminate the scourge on the industry.

It is my job.

2. Decriminalizing defamation

No one should be jailed for reporting that is critical of vested interests – including politicians. But that's where journalists across the region find themselves today, both west and east of Vienna. Sentencing journalists to prison contravenes European Court of Human Rights holdings and flies in the face of commitments to free media and free expression.

It is my job to promote the adoption of legislation to end imprisonment as a punishment for critical reporting.

3. Promoting civil defamation reform

Civil lawsuits, often brought by government officials or well-connected businesspeople, pose a threat not only to individual journalists and media owners, but to media pluralism. Free expression that can't be silenced in the marketplace of ideas cannot be allowed to be silenced in courtroom under the guise of law. Mistakes are made; reputations can be damaged. But damage awards must take into account the actual harm caused and must be proportional to that harm. That's why it is my job to promote reforms in civil defamation cases.

4. Promoting the digital switchover

OSCE commitments are replete with the need to sustain and promote pluralism in the media. The technological advances which have resulted in broadcast digitalization provide for remarkable pluralism – as long as the process is carried out correctly in a fair process governed by independent regulators. If it is not fair, not only has pluralism become an opportunity lost, but monopolies can be created that could be too difficult to dismantle.

It is my job to promote media pluralism and assisting participating States with a rational and fair switch to digital broadcasting is essential to the fulfilling the task.

5. Protection of sources

Reporting on government and the other institutions is the essence of free media's job to inform citizens about government and society. Protecting confidential sources that may, in one way or another, run the risk of harm by having their identities revealed goes hand-in-glove with the journalists' job of reporting on matters of public interest. I am doing my job to promote good journalism by lobbying for legislative or court protection for the right to hold sources confidential.

6. Access to information

As a corollary to protection of sources, the right of the media and the public generally to discover what governments on all levels are doing – how they are carrying out their jobs – is essential. Strong laws promoting open government, including so-called e-government, promotes good journalism and allows media to fulfil their job to inform the public. It is my job to promote legislative attempts to open government files to the media and the public.

7. A free Internet

As approved in the Sofia Ministerial Council meeting in 2004, “Participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights, and to foster access to the Internet both in homes and schools.”

The importance of keeping the Internet free cannot be overstated. As you know, my Office and I have expended considerable time and energy to promote Internet freedom across the region. I will continue to do so. The reason is simple: The Internet, as we commonly know it, allows for virtually limitless opportunities for the ability to receive and send information. To carve up or to Balkanize the Internet, or to establish firewalls or draconian legal penalties for those who use it, would defeat the entire meaning of free expression in the 21st century.

It is my job to ensure that the Internet remains an open and public forum for freedom of expression.

8. Administrative barriers

Administrative requirements, including business-entity registration requirements, should exist only for the purpose of maintaining records necessary to fulfil government obligations and in no case should the administrative process differ in form or effect from those required of any other type of business in the jurisdiction. Effectively putting journalists or media companies out of business by administrative harassment damages pluralism and flies in the face of a free media environment.

It is my job to ensure pluralism and see a level-playing field for media, regardless of ideology.

Conclusion

I look forward to these three days as we discuss what constitutes a media-friendly legal framework and share what we call best practices to build that environment.

I wish you all an interesting and fruitful seminar here in Warsaw.

CLOSING REMARKS

Ms. Dunja Mijatović, OSCE Representative on Freedom of the Media

Excellencies, Ladies and Gentlemen,

Let me share a few observations and assessments with you, spotlight style. These are single topics which can be addressed in a package or individually, depending on what reform steps your government has or has not taken in order to bring its legal framework in line with OSCE commitments.

Press Laws

It is an old debate whether no law is the best law. Whichever way you go, one thing should be ensured: press laws need to translate the constitutionally enshrined freedom of the media and freedom of expression into safeguarded provision in the press law. To publish a printed issue of a daily or a periodical is a right, it is not a privilege. Hence governmental interference has

to be at a minimum, and many provisions of registration, licensing, permits etc. run counter to this right. They also can become very quickly a source of political or administrative abuse.

Public Service Broadcasting

It is a European standard. An independent regulator, a secured financing and editorial independence from the government of the day are prerequisites. By that the true notion of public service can be achieved: namely mature and independent reporting, reflecting the pluralistic nature, which is the fabric of the societies in all 57 OSCE pS. According to our data, at least one third of OSCE participating States do not have truly independent regulators even if the legal provisions are in place.

Independent and/or commercial broadcasters are a meaningful second cluster of broadcasters, in addition to PSB. The dual system is established in most countries. An independent regulator guaranteeing a level playing field is essential in this. Ownership transparency and provisions to weed out conflict of interests and unhealthy cross ownership are governmental and legislative obligations. Nobody else can do that, but States.

Digital Terrestrial Switch

It is technical, yes. But as soon as we look at it with a view to news reporting, pluralism comes into play. This is a longstanding commitment within the OSCE and I once again call upon governments to use this unique opportunity of the digital switchover to foster pluralism. It is an obligation and it is helped by technology.

Defamation and libel

When I came into office in 2010, 8 countries had decriminalized. Now we stand at 14. Here I call upon Western European states to lead by example and delete criminal provisions even when they are not used by courts, because courts follow the jurisprudence of Strasbourg. I call upon transformation states to reform their criminal provisions in line with international best practices.

With the experiences gained by 14 States, this could be a flagship undertaking of peer assistance and experience sharing.

I should add that any form of blasphemy laws, being a special category of defamation provisions, is not compatible with OSCE commitments. This is also true in those countries which have such provisions and don't use them.

Internet

To keep it free is an OSCE obligation since 2004. Still, we see more and more attempts to interfere with the free nature of the Internet. Blockings, partial shutdowns (without proper judicial procedures, including the right to appeal) not only undermine the free flow of information but also hinder pluralism, which are both established OSCE commitments. I am aware that some content is illegal; I admit some is hard to digest. However, there are ways to address these issues without violating international obligations. The manuals and guidebooks, the Amsterdam process and the recent Internet conference in Vienna, have yielded plenty of useful models, recommendations and best practices to this end.

Access to Information

Governments do not hold information for their own sake, they do it in the name of the citizens they govern. With a few, ideally clearly defined exceptions by law, such information should be made accessible. Access to information laws can help in this. About 50 participating States have such laws. The others are encouraged to adopt them! And even those in vigour, sometimes need to be revised.

Investigative journalism

Is an established method of helping with one of the most noble functions of quality journalism, namely control of governmental action. If governments take this function serious, they should establish a solid protection of sources legislation. If you look for a good example, take the Belgian law of 2005 for inspiration.

Security related legislation

We are all aware that we live in challenging times in this respect. However, the experience of my office and of other international organizations - in addition to academic research - has proven that very often security is a pretext for impeding free media. By doing so, OSCE commitments are violated, but an equally tragic casualty is the loss of a basic freedom. Dozens of journalists in jail in some OSCE participating States, at any given moment or over time, are not due to low security. This outrageously high number of imprisonments is a consequence of bad laws. I am not going to fingerpoint here. My reports, legal reviews and recommendations speak volumes in this respect. A self-critical reassessment in this regard would be my recommendations to participating States.

Safety of journalists

The fact that there was constant debate without consensus on this topic since 2009 at least, does not make the problem go away. Journalists are in danger, sometimes of their lives in too many instances and in too many countries in the OSCE. Let me repeat two obligations by governments: 1) Political leadership. If violence is not condemned in the strongest terms, the result is impunity. You know exactly in which participating States such cases are pending. 2) If violence against journalists occurs, law enforcement and investigative bodies need to have the proper capacities in place to conduct meaningful and transparent investigations and bring perpetrators to justice. I repeat: the responsibility is with governments. Safety of citizens, including journalists, is a governmental duty. The Vilnius recommendations and our Guidebook on Safety of Journalists spell out – step by step – what can be done. Please do it!

Self-regulation

This is hands-off for governments, but benevolent support is nonetheless welcome. But in the true spirit of self-regulation, i.e. journalists for journalists. If properly initiated, it improves the quality of journalism, it gives a fast possibility for remedial action in case of mistakes and it is an expression of a sense of responsibility of journalists vis-à-vis their audiences. Self-regulation does not replace laws or courts, but like traffic rules it helps to manage with the decision making process of millions of media professionals every day in most countries in the world.

Administrative harassment

You cannot imagine how many “innovative ideas” have sprung up since the office was established on how to make the life of media outlets difficult. Registration and Re-registration, taxation audits, delayed delivery of paper, ink or printing machines, no access to (government owed printing plants), hindered access to the distribution system (kiosks by ordinary mail), cumbersome accreditation etc. etc.

Why do I mention this? Because it is a simple observation that such misfortunes seem to happen to independent or opposition media (as they often call themselves) much more often than to media outlets with an editorial line in support of the government. To remedy this, is something which can be done with little effort. All it needs is to translate the political intention expressed when signing up to the OSCE commitments into reality on the ground.

At this Seminar we have heard a wealth of suggestions, recommendations, and best practices; as always, in the very OSCE tradition of course there will be a report. In the meantime, in concluding this conference, let me distill the 10 recommendations for a better legal framework.

1. OSCE commitments and other international obligations constitute a substantive body of law and practices. If translated in good faith and to the maximum extent possible, an improved framework for freedom of the media will by definition be achieved.
2. Honour the spirit of the constitutionally enshrined freedom of the media, not only its letter. This means political leadership, sound legislation and an independent interpretation of the law by courts. With this we see, that such concepts as rule of law or the division of powers are prerequisites also for the freedom of the media. And these are concepts which OSCE participating States have subscribed to.
3. Laws must be designed to proactively foster media freedom. Legislators very naturally take it as their obligation to protect citizens from crime. Just as naturally they should legislate to protect media freedom from undue limitations.
4. Although convergence is the rule of the day and our mobile devices are about to become our TV sets and desktop computers in one, there is still a systemic difference between print, broadcast and the new media. Print and new media are not depending on scarce resources. They are almost limitless as long as they are commercially viable. Hence, legislation needs to address the minimum. Broadcast, even with the digital dividend, remains a limited resource. Legislation in this field should aim for the optimum for the public benefit, sheltering outreach with diversity, educational, cultural, political and linguistic requirements. This must be considered when legislating.
5. No new laws are necessary for online content. The carrier of a piece of public information does not make any difference, the content does. Electronically distributed content, including media content is already regulated by law, namely by the laws which are governing the offline world. What needed is a broader acceptance by authorities that not only the rules and responsibilities are to be naturally extended to the online world, but also the protected freedoms. As long as there is new technology there will be new journalistic formats. Any artificial exclusion (blogger, citizens journalism, sharing platforms) will not survive the next round of technological innovation. Legislation must become more flexible and more adaptive not less, including on the lifespan of any given law.
6. Freedom first, responsibility as a consequence - not the other way round. International obligations bind governments to proactively support media freedom. The often

pronounced formula that media have to show a certain degree of responsibility before more freedom can be granted, is not acceptable. It is wrong by concept and also does not stand any reality check. The best, and arguably more mature media, are found in those countries which have a deeply enrooted media freedom tradition. No example worked the other way round.

7. Oversight bodies for media must be independent. All governments know that they cannot always resist the temptation of interfering with media. In order to keep this temptation at bay, there is only one way: independent regulatory authorities. There are plenty of best practices for this, and my office stands ready to help in promoting it.
8. No legal framework is operating outside of a societal context. The culture of living up to media freedom is also important. This should be taken into account, when legislation is initiated. Not all issues need the same degree of legislative devotion or attention in all countries.
9. Some domains are so complex that the more detailed the legislation the better the results. Health of people, food and medical provisions might be of that nature. Media are not. The litmus test should always be: is this legislation really needed? And if yes, how can it be designed to be the least intrusive?
10. Nobody can be expected to do everything at the same time. It is ok to go step by step. But the OSCE participating States need to go ahead.

A lot of the issues touched upon are of course reflected in many of the studies, research, publications that our Office has commissioned. They are at your disposal, as is the assistance of the Office in general, including the much acclaimed instrument of legal reviews. These are an offer for governments or parliaments to have their legal reform drafts reviewed against consistency of OSCE and other international standards.

I thank the Chairmanship, delegations, moderators, introducers, rapporteurs, NGOs, international organizations, interpreters and ODIHR for organizing and participating at this event.

ANNEX III: INFORMATION ON SPEAKERS

Keynote speaker: Ms. Dunja Mijatović, OSCE Representative on Freedom of the Media

Dunja Mijatovic of Bosnia and Herzegovina was appointed OSCE Representative on Freedom of the Media on 11 March 2010, and reappointed for a second three-year term on 7 March 2013. She is an expert in media law and regulation. In 1998, as one of the founders of the Communications Regulatory Agency of Bosnia and Herzegovina, she helped to create a legal, regulatory and policy framework for the media in a complex post-war society. She was also involved in setting up a self-regulatory Press Council and the first Free Media Helpline in South East Europe. In 2007 she was elected Chair of the European Platform of Regulatory Agencies. Previously, she chaired the Council of Europe's Group of Specialists on freedom of expression and information in times of crisis. As an expert on media and communications legislation, she has worked in Armenia, Austria, Iraq, Jordan, Montenegro, Serbia, Slovenia, Morocco and the United Kingdom.

WORKING GROUP I: International framework for media freedom

Introducer: Prof. Kaarle Nordenstreng, Professor Emeritus, University of Tampere, Finland

Professor Nordenstreng became a Professor Emeritus at University of Tampere (Finland), after serving as chair of journalism and mass communication since 1971. Earlier he worked as a journalist and head of research at the Finnish Broadcasting Company (YLE). Since 1968 Professor Nordenstreng has been a member of the Association of Finnish Radio and Television Journalists, as well as the Union of Journalists in Finland. From 1969 to 1977 he was a member of the Finnish National Commission of UNESCO and from 1974 to 1984 a member of the Finnish Advisory Committee to the Conference on Security and Co-operation in Europe (CSCE). From 1972 to 1988 Professor Nordenstreng served as a Vice-President of the International Association for Mass Communication Research (IAMCR) and from 1976 to 1990 he was the President of the International Organization of Journalists (IOJ). He is also a member of the International Communication Association (ICA) and a founder of the Nordic Information Centre for Media and Communication Research (NORDICOM).

Moderator: Mr. Taras Shevchenko, Director of the Kyiv Media Law Institute (MLI), Member of the Public Council under the Ministry of Justice, Secretary of the Public Council under the Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information

Mr. Shevchenko is the Director of the Kyiv Media Law Institute (MLI). He also serves as a member of the Public Council under the Ministry of Justice and a Secretary of the Public Council under the Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information. Mr. Shevchenko was Chairman of the Independent Expert Council on mass media during the elections of 2006 and 2007. Author of over 100 publications, Mr. Shevchenko lectures at the Institute of Journalism of the Taras Shevchenko National University of Kyiv.

WORKING GROUP II: National frameworks for media freedom – best practices

Introducer: Prof. Nico van Eijk, Professor of Media and Telecommunications Law, Director of the Institute for Information Law (IViR), Faculty of Law, University of Amsterdam

Professor Nico van Eijk is Professor of Media and Telecommunications Law and Director of the Institute for Information Law (IViR, Faculty of Law) at the University of Amsterdam. He received his doctorate degree on government interference with broadcasting in 1992 from the University of Amsterdam. He also works as an independent legal adviser. Among other things, he is the Chairman of the Dutch Federation for Media and Communications Law and a member of the supervisory board of the Dutch public broadcasting organisation (NPO).

Moderator: Mr. Dainius Radzevičius, TV and radio journalist and spokesperson, Chairman of the Union of Journalists of Lithuania

Mr. Radzevičius is a professional TV and radio journalist and spokesperson. From 2001 to 2006 he served as Director of Public Relations department at the Ministry of Justice of the Republic of Lithuania. From 2010 to 2013 he was the Chairman of the Council of National Radio and Television. Since 2003 Mr. Radzevičius has been the Chairman of the Union of Journalists of Lithuania.

WORKING GROUP II: National frameworks for media freedom – best practices - continued

Introducer: Ms. Helena Mandić, Director of Broadcasting, Communications Regulatory Agency, Bosnia and Herzegovina

Ms. Helena Mandić graduated from the Sarajevo Faculty of Law, and has worked in the Communications Regulatory Agency (Agency) since its inception in 1998 where she has performed various duties, including that of Head of Legal Department and Head of Division of Programme Standards, Complaints and Broadcasting Regulation. She is currently the Director of Broadcasting. Ms. Mandić participated in the work of expert groups drafting the Bosnia and Herzegovina Press Code, as well as laws on defamation, freedom of information and communications. She has also been a member of the team representing Bosnia and Herzegovina in cases before the Human Rights Chamber of Bosnia and Herzegovina. Ms. Mandić also represents the Agency within the European (EPRA) and Mediterranean networks of regulatory authorities (MNRA) and during the Bosnia and Herzegovina Presidency of the European Audiovisual Observatory (EAO) in 2012, she conducted the presidency duties and regularly chaired the meetings of the EAO Executive Council.

Moderator: Mr. Jan Malinowski, Head of Information Society Department, Directorate General of Human Rights and Rule of Law, Council of Europe

Mr. Jan Malinowski is a lawyer, qualified in Spain and England. Following eight years of professional practice in Barcelona and London, Mr. Malinowski joined the Council of Europe where he worked for eleven years with the anti-torture watchdog. Since 2005, Mr. Malinowski has been responsible for Council of Europe work on media policy, freedom of expression and Internet governance. This work has resulted in the adoption by the organization's 47 member states of a number of ground-breaking human rights-based normative texts, including a new notion of media, a commitment to do “no harm” to the Internet and the acknowledgement of the states’ shared responsibility for preserving the integrity and ongoing functioning of the Internet. As Head of the Information Society Department, he is now also responsible for work related to two unique Council of Europe conventions, on data protection and cybercrime.

WORKING GROUP III: Implementation of existing OSCE commitments

Introducers:

Ms. Dunja Mijatović (see Keynote Speaker)

Ms. Helen Darbshire, Founder and Director, Access Info Europe, Spain

Ms. Helen Darbshire is a founder and director of the Madrid-based organization Access Info Europe. She is a human rights activist who specializes in the public’s right of access to information, and development of open and participatory democracies. She has provided expertise to many non-governmental and inter-governmental organizations, including UNESCO, the Council of Europe, the OSCE, and the World Bank. A founder of the global Freedom of Information Advocates Network, Ms. Darbshire served two terms as its chair

from 2004 to 2010. She is a founding board member of the pro-transparency organizations Civio (Spain) and Diritto di Sapere (Italy).

Moderator: Mr. Boris Navasardian, President of the Yerevan Press Club, Armenia

Mr. Boris Navasardian has been the President of the Yerevan Press Club, the first independent association of journalists in Armenia, since its foundation in 1995. He lectured at Yerevan State University, the Russian-Armenian (Slavonic) State University and the Yerevan State Linguistics University. Mr. Navasardian has authored numerous articles and TV programmes, managed dozens of projects on media, civil society development and conflict resolution, and was in charge of the publication of over 50 books on journalism and democracy promotion.