

ANOTHER STRING TO THE BOW OF MEDIA FREEDOM

**AN ANALYSIS OF THE COMMUNIQUÉS OF THE
OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA
(2014-2022)**

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Overview of Communiqués

#	Communiqué	Date
1	Communiqué by OSCE Representative on Freedom of the Media on blocking television channels	27 March 2014
2	Communiqué by the OSCE Representative on Freedom of the Media on denial of entry of journalists from one OSCE participating State to another	3 April 2014
3	Communiqué by OSCE Representative on Freedom of the Media on propaganda in times of conflict	15 April 2014
4	Communiqué by OSCE Representative on Freedom of the Media on ruling of the European Union Court of Justice	16 May 2014
5	Recommendations by OSCE Representative on Freedom of the Media on Open Journalism	22 May 2014
6	Communiqué by the OSCE Representative on Freedom of the Media on the impact of laws countering extremism on freedom of expression and freedom of the media	7 October 2014
7	Recommendations on Open Journalism after second expert meeting	28 November 2014
8	Communiqué on freedom of expression and freedom of the media as a vital condition for tolerance and nondiscrimination	8 January 2015
9	Communiqué on the growing safety threat to female journalists online	5 February 2015
10	Communiqué on the digital switchover	17 June 2015
11	3rd Communiqué on Open Journalism	29 January 2016
12	Communique by the OSCE Representative on Freedom of the Media on using drones for journalism	3 March 2016
13	Communique by the OSCE Representative on Freedom of the Media on the rights and safety of journalists reporting on refugees	4 March 2016
14	Communique on the accreditation of foreign journalists for implementing the right to freedom of information	8 June 2016
15	Communique by the OSCE Representative on Freedom of the Media on criminal defamation laws protecting foreign heads of state	14 June 2016
16	Communiqué by the OSCE Representative on Freedom of the Media on free expression and the fight against terrorism	1 September 2016
17	Communiqué by the OSCE RFoM on criminal and administrative prosecution for social media activities and the impact on freedom of expression and freedom of the media	23 November 2016
18	Communiqué by the OSCE RFoM on Media Pluralism, Safety of Female Journalists and Safeguarding Marginalized Voices Online	21 February 2019
19	Communiqué by the OSCE Representative on Freedom of the Media on the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers	3 May 2021
20	Communiqué by the OSCE Representative on Freedom of the Media A call to protect media freedom during armed conflict and to stop propaganda for war	3 March 2022

Executive summary

Since 2014, the OSCE Representative on Freedom of the Media has issued 20 communiqués on a range of different themes relating to freedom of expression and information; media and internet freedom; and the safety and freedoms of journalists and other (media) actors. They were introduced as a new form of output that would have more depth and impact than regular press releases or statements.

This study provides an analysis of this corpus of communiqués. It examines their aims, structure, style and substance and it reflects on their added value within a broader set of instruments and formats used by the Representative to make political interventions and develop standpoints.

The thematic analysis is grouped into the following rough categories: 1) enduring threats to freedom of the media and freedom of expression; 2) emerging threats to freedom of the media and freedom of expression; and 3) signature themes of the Office of the Representative. The signature themes are open journalism and safety of female journalists online – the focuses of two recent flagship projects by the Office of the Representative.

The picture that emerges from the analysis is one of complementary focuses and consistent approaches. Nevertheless, the conclusions offer a few modest recommendations to make future communiqués more distinctly recognisable as such and to further enhance the consistency across the growing corpus of communiqués.

1. Introduction

On the 25th anniversary of the establishment of the Office of the OSCE Representative on Freedom of the Media (hereafter, ‘RFoM’ or ‘the Representative’), it is fitting to reflect on past achievements and future ambitions. Such reflection can usefully engage in stocktaking and forward-planning. This report seeks to contribute to that process of reflection by examining the 20 communiqués that have been issued by the Representative in the past years.

After their debut in 2014, communiqués were issued regularly by the Representative until 2017. They then fell into abeyance for a few years, but have recently re-emerged as a recognisable form of output/intervention by the Representative.

This report provides accessible analysis of the communiqués to date: their genesis and purpose; their structural and stylistic features; their thematic focuses; and their potential for further consolidation and elaboration as a regular channel of engagement for the Representative.

2. Aims and added value

In 2014, when the RFoM initiated the practice of issuing communiqués, the Representative was already using diverse formats for public interventions and output: statements, speeches, reports and publications of different kinds. The diversity of all that output offers lots of flexibility. The RFoM can choose horses for courses, strategically opting for the type of output that is best-suited for the desired impact.

With such a wide and flexible instrumentarium, what was the perceived need for a new format? What were the main aims and expected added value of communiqués? How would a communiqué distinguish itself from other – more familiar – forms of output? What would be the structural and stylistic features of that format and how would they contribute to achieving its main aims? What themes would lend themselves to examination in communiqués? Would communiqués be anticipatory or reactionary in their approach to selected issues, or both?

In the absence of a publicly-available blue-print setting out the aims and scope of communiqués, this section seeks to piece together and analyse the thinking behind the introduction of communiqués, based on documented references to communiqués and discussions and correspondence with (former) staff of the OSCE RFoM.

It seems that the in-house ambition for communiqués was for this novum to have an elevated status vis-à-vis run-of-the-mill statements and press releases. The very name seeks to emphasise its distinctiveness. It had the potential – and aim – to set out the Representative’s position on issues that transcended country-specific situations; to issue recommendations, and to do so in a direct manner and in a personal tone.

In her Regular Report to the Permanent Council in June 2014, Dunja Mijatović explained the need to introduce communiqués as a new form of intervention/output as follows:

“During this reporting period I have intervened on media-freedom related matters about 120 times, including 40 on Ukraine issues alone.

Over the past six months I have come here several times to explain what is happening with freedom of the media in Ukraine and to ask for all the parties involved to show some degree of restraint and respect for the fundamental values of free expression that make democracy and civilized society work.

The problems fall into four broad categories: violence and threats of violence against journalists, the blocking and switching of broadcast signals, the denial of free passage to journalists to cover events, and, of course, the use of propaganda in times of conflict.

The scope of these problems has been so massive that I found it necessary to issue statements, which I call communiqués, on several of these issues to make my Office’s position absolutely clear. I consider my positions on these issues to be in line with international and OSCE standards on free media and free expression.”¹

Basic statistical analysis provides useful insights into the use of communiqués by successive Representatives: 17 of the 20 communiqués were issued by Ms. Dunja Mijatović (2010 – 2017); one by her successor, Mr. Harlem Désir (2017 – 2020); and two (so far) by the present incumbent, Ms. Teresa Ribeiro (2020 -). The communiqué was the brain-child of Dunja Mijatović and her team, which explains the extensive use of the communiqué during the latter years of her incumbency. Having conceived of the communiqué in the first place, Mijatović and her team clearly had a sense of strategic purpose about how the communiqué could be used as an additional string to the Representative’s bow. This begs the question whether subsequent Representatives also shared that sense of strategic purpose, and if so, why their use of communiqués has been limited?

Eight years after the introduction of communiqués, in 2022, Teresa Ribeiro explained how she views and uses communiqués as follows:

“The use of communiqués is a valuable instrument that I have in fulfilling my Mandate, and hence in furthering media freedom in the OSCE region. It is a useful way for me to set out my position and make recommendations to the OSCE participating States on topical thematic issues.”²

An analysis of the structural and stylistic features of the communiqués to date can provide some clues about how these texts have served the strategic purposes envisaged for them. This is the focus of the next section.

¹ Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media, Dunja Mijatović, Regular Report to the Permanent Council for the period from 28 November 2013 through 18 June 2014, 19 June 2014, p. 1.

² Statement provided by the Representative on Freedom of the Media, Teresa Ribeiro, to the author by e-mail on 20 June 2022.

3. Structural and stylistic features

The communiqués consistently open with a chapeau paragraph briefly summarising the context of the problem(s) they address. This is a kind of lead paragraph and it is typically written in italics or bold font for emphasis.

Almost all communiqués put forward specific recommendations to participating States. These recommendations are typically positioned at or towards the end of a communiqué, as the logical culmination of the preceding explanations and analysis. Occasionally, the recommendations are inserted earlier in the text (just after the chapeau paragraph), but that is more an exception than a rule.

How the recommendations are styled and formulated also differs across communiqués. In some communiqués, the Representative “urges” participating States to take specific courses of action to address or resolve a threat to, or violation of, the right to freedom of expression or media freedom. More often and consistently, though, the Representative formulates (sets of) specific recommendations, mainly to States, but occasionally also to the media and internet intermediaries.

There is also some variation in how the recommendations are introduced, alternating between third- and first-person forms. The third-person form is typically, “the Representative on Freedom of the Media recommends”. The first-person form is “As Representative on Freedom of the Media, I...”. The latter conveys a more engaged and forceful impression, as it emphasizes the authority and identity of the Representative.

A few communiqués contain one or more footnotes providing a reference or additional explanation. This is a minor detail, but worth mentioning as the use of footnotes can prompt further reflection on what stylistic devices can be used to provide additional precision or pointing, while remaining accessible and readable at speed.

4. Thematic focuses

The 20 Communiqués focus on a range of themes, comprising enduring and emerging threats to freedom of the media and freedom of expression. A number of Communiqués are mainly reactionary and focus on specific incidents or developments. The selection of themes is driven partly by insights and anticipation, and partly by situations and incidents that call for responses. The organic nature of theme-selection makes it difficult to categorise the themes neatly. For present purposes, the themes have been grouped into the following rough categories: 1) enduring threats to freedom of the media and freedom of expression; 2) emerging threats to freedom of the media and freedom of expression; and 3) signature themes of the Office of the RFoM.

4.1 Enduring threats to freedom of the media and freedom of expression

The category, enduring threats to freedom of the media and freedom of expression, includes issues such as the blocking of television channels, the denial of entry of journalists from one OSCE participating State to another, propaganda in times of conflict, the accreditation of foreign journalists for implementing the right to freedom of information, and the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers. This is traditional territory for the OSCE: participating States have entered into extensive political commitments to uphold freedom of the media, freedom of expression and the free flow of information.³

In the Helsinki Final Act of the Conference on Security and Co-operation in Europe, participating States undertook to “fulfil their obligations as set forth in the international declarations and agreements in [the field of human rights and fundamental freedoms], including the International Covenants on Human Rights, by which they may be bound”.⁴ The Helsinki Final Act contains extensive sections on freedom of information, expression and the media. Participating States have since consistently reaffirmed that “freedom of expression is a fundamental human right and a basic component of a democratic society” and have stated that they “take as their guiding principle that they will safeguard this right”.⁵ Participating States have also recognized the “need to strengthen the implementation of OSCE commitments in the field of media, taking into account, as appropriate, the work of other international organizations”,⁶ to which end they decided to establish the office of the RFoM.⁷ In December 2018, the OSCE Ministerial Council called on participating States to take a number of courses of action to strengthen freedom of expression, media freedom and, in particular, safety of journalists.⁸ These commitments are conveniently itemised and summarised in the 2021 Communiqué on the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers.

These OSCE commitments are consistent with the international and European human rights standards that were developed in the aftermath of the Second World War. They reflect several pressing preoccupations of the Cold War era in which the Conference on Security and Co-operation in Europe was born. Those preoccupations include: freedom of expression and information, especially for news-related purposes, across national boundaries, and the safety and other rights of journalists and the media in pursuit of their professional activities. Such preoccupations have endured beyond the Cold War, and they have flared up at different moments, for instance in the political tensions and hostility generated by the Russian invasion and annexation of the Crimea in 2014. This explains their inclusion in the Communiqués on blocking television channels; denial of entry of journalists from one OSCE participating State

³ The OSCE Commitments on Freedom of Expression, Freedom of the Media and the Free Flow of Information, 1975–2017 (4th Edition), available at: <https://www.osce.org/representative-on-freedom-of-media/354081>.

⁴ Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, under 1. (a) Declaration on Principles Guiding Relations between Participating States, VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.

⁵ Budapest Document: Towards a Genuine Partnership in a New Era, Budapest Decisions, Summit of Heads of State or Government, Budapest, 5–6 December 1994, VIII. Human Dimension, Para. 36.

⁶ Lisbon Summit Declaration, Summit of Heads of State or Government, Lisbon, 2–3 December 1996, Para. 11.

⁷ Establishment of the Office of the OSCE Representative on Freedom of the Media, Mandate of the OSCE Representative on Freedom of the Media, Decision No. 193 of the Permanent Council, 5 November 1997.

⁸ OSCE Ministerial Council. Decision No. 03/18. “Decision on the Safety of Journalists” (MC.DEC/3/18. Milan, 7 December 2018).

to another; and propaganda in times of conflict. These three Communiqués were issued in quick succession in March and April 2014, shortly after the Russian Federation’s annexation of the Crimea.

The Communiqués on blocking television channels and on denial of entry of journalists from one OSCE participating State to another both recall the relevance of the Helsinki Final Act. The Communiqué on blocking television channels underscored the consistency of the Helsinki Final Act with international human rights law before explaining the essence of Article 19 of the International Covenant on Civil and Political Rights. It also referenced other OSCE commitments. The Communiqué on propaganda in times of conflict referenced the Copenhagen and Moscow Documents. This amounts to useful institutional framing for two reasons. First, it sets out the political backdrop to the specific problems addressed by the Communiqués. Second, it gives the Representative the opportunity to urge participating States to “fulfil their OSCE commitments and refrain from any steps to restrict the free flow of information”⁹ or to recall the need for them “to strengthen and further develop compliance with relevant OSCE principles and commitments”.¹⁰

The three Communiqués contain a set of recommendations that seek to strengthen an enabling environment for media freedom: reform state media into genuine public service broadcasting and private media; stop manipulating media and stop information and psychological wars; ensure journalists’ safety; ensure media plurality and free media as an antidote to propaganda; invest in media literacy for citizens to make informed choices. The Communiqués also contain specific recommendations for OSCE participating States to refrain from certain types of interferences with freedom of expression, such as the introduction of new restrictions to deal with extreme propaganda (which can be dealt with under existing laws),¹¹ or “blocking media to avoid arbitrary and politically motivated actions which could impede the expression of alternative positions”.¹²

The recommendation that journalists who are denied entry into another state “should be given the opportunity to appeal” also contributes to an enabling environment for media freedom inasmuch as it is a specific procedural safeguard for the free flow of information across state boundaries.

Two years later, in 2016, the Representative returned to the issue of access questions for journalists, in her Communiqué on the accreditation of foreign journalists for implementing the right to freedom of information. The Communiqué explores the intertwined relationship between access and accreditation. It was developed on the back of a commissioned report for the Office of the Representative, entitled ‘Accreditation of Foreign Journalists in the OSCE region’.¹³ The report examines theoretical and practical aspects of accreditation issues, as well as international standards, OSCE commitments and selected national practices. This

⁹ Communiqué by the OSCE Representative on Freedom of the Media on denial of entry of journalists from one OSCE participating State to another, 3 April 2014.

¹⁰ Communiqué by OSCE Representative on Freedom of the Media on blocking television channels, 27 March 2014.

¹¹ Communiqué by OSCE Representative on Freedom of the Media on propaganda in times of conflict, 15 April 2014.

¹² Communiqué on blocking television channels, *op. cit.*

¹³ Elena Sherstoboeva and Valentina Pavlenko, ‘Accreditation of Foreign Journalists in the OSCE region’, May 2016, available at: <https://www.osce.org/files/f/documents/2/8/245146.pdf>.

specialized subject matter has not been very widely explored in other intergovernmental fora.¹⁴ It is a logical and important focus for the Representative, given the OSCE’s historical emphasis on accreditation and access, and the renewed relevance of these questions in certain participating States. Indeed, the Representative’s 2021 Communiqué recalls the relevance of accreditation issues (and of the report).

The Communiqué’s substantive recommendations reinforce the ‘enabling environment’ approach. Accreditation rules should “act as an enabling tool for foreign journalists to carry out their work” and should not “serve as a tool to control content, restrict the flow of information across borders, or as a sanction in response to alien propaganda”. These emphases resonate with the thrust of the three earlier communiqués discussed above. Another key recommendation is that freelance journalists “should have the same rights to be granted accreditation” as affiliated journalists. This recognises a clear expansion of the field of journalistic actors in recent years. It also addresses a potential loophole for disadvantaging journalists without institutional affiliation.

The Communiqué and report thus have real added value, not only substantively, but also in terms of awareness-raising around these issues. The report formulated a more extensive and more detailed set of recommendations than the Communiqué. That is appropriate, as communiqués by their nature aim to pack an effective punch, whereas reports are more in-depth and patient.

This particular instance of coupling a communiqué and a report points to the wider potential for synergies between the two forms of output. Thematic coherence and coordination of strategic release facilitate impact at different levels – direct political impact and longer-term policy impact. Despite the synergies that can be unlocked, such coupling has not been prevalent in the communiqués to date.

Communiqué on blocking television channels	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Recently politicians, lawmakers and regulators in Ukraine have expressed concern about the influence of Russian television on information security or other national interests. These concerns are often followed by actions that effectively suspend or ban all or some programmes produced in Russia. In a similar development, de facto authorities in Crimea several weeks ago abruptly and brutally switched off almost all Ukrainian television channels and replaced them with channels originating from the Russian Federation. While the OSCE Representative on Freedom of the Media has expressed her opinion on specific incidents in the recent weeks, she</i>	the transformation of state media into public service broadcasters and private media across the OSCE region.
	all participating States to stop the information war, stop the manipulation with media and to ensure journalists’ safety
	The participating States to refrain from blocking media to avoid arbitrary and politically motivated actions which could impede the expression of alternative positions.
	[recall] the need to strengthen and further develop compliance with relevant OSCE principles and commitments, including alleged serious instances of intolerance by participating States which utilize media in

¹⁴ On the specific points of access and accreditation for foreign journalists, the Communiqué provides additional details to, for instance, the Council of Europe’s Committee of Ministers’ Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors, 13 April 2016.

<i>would like to summarize her position on the issue as a whole.</i>	violation of the principles referred to in the Budapest Document, Chapter VIII, paragraph 25, and in the Decisions of the Rome Council Meeting, Chapter X
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Communiqué on denial of entry of journalists from one OSCE participating State to another	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Over recent years the OSCE Representative on Freedom of the Media has reacted on a number of occasions when an OSCE participating States denied entry to journalists from other countries. Following recent instances where journalists from Russia were denied entry into Ukraine, as well as reports of de facto authorities in Crimea denying entry to a number of journalists crossing the border of the peninsula, the Representative would like to restate her position on this issue.</i>	OSCE participating States to fulfil their commitments and refrain from any steps to restrict the free flow of information. Journalists negatively affected by denials of entry should be given the opportunity to appeal.

Communiqué on propaganda in times of conflict	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>As the current crisis in and around Ukraine demonstrates, propaganda and deterioration of media freedom often go together to fuel a conflict, and once it starts they contribute to its escalation. The need to stop propaganda is frequently being used as a reason for blocking and jamming television and radio signals or imposing other restrictions to freedom of expression and freedom of the media. Taking into consideration the broadness and vagueness of the term propaganda, and its direct link to political speech, its blank prohibition would violate international standards for the protection of free expression and free media.</i>	Stop manipulating media; stop information and psychological wars. Ensure media plurality and free media as an antidote to propaganda. Refrain from introducing new restrictions; existing laws can deal with extreme propaganda. Invest in media literacy for citizens to make informed choices. Reform state media into genuine public service broadcasting.

Communiqué on the accreditation of foreign journalists for implementing the right to freedom of information	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Accreditation or official recognition of foreign journalists is a core element of the Helsinki Final Act and other commitments that OSCE participating States have agreed upon. The issue of press accreditation has</i>	participating States review their rules on accreditation for foreign correspondents (whenever they exist) to bring them in line with OSCE commitments on media freedom, including the Helsinki Final Act:

<i>recently become an increasing concern. Freedom to perform journalistic duties abroad is crucial for strengthening a climate of trust and co-operation within the OSCE region. I have expressed my concern on numerous occasions about abuses of accreditation practices for foreign journalists that have recently become much more frequent.</i>	(i) Accreditation for foreign journalists should not be a precondition to obtain a visa or to enter a country;
	(ii) Accreditation rules should act as an enabling tool for foreign journalists to carry out their work;
	(iii) Accreditation rules should be clear and transparent in their terms and conditions, as well as grounds for denial and withdrawal;
	(iv) Freelance journalists should have the same rights to be granted accreditation;
	(v) Accreditation should not serve as a tool to control content, restrict the flow of information across borders, or as a sanction in response to alien propaganda.

The fourth communiqué to be discussed in this section is the 2021 Communiqué on the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers. The first communiqué adopted by the present Representative, it differs in length, structure and style, from the other communiqués discussed above. It is both a “state-of-play” and an anticipatory document, focused on shared core and priority themes of the OSCE and the Representative. It brings together many of the issues and approaches of earlier communiqués, in particular those discussed above. The Representative thus seems to be engaging in stocktaking and future positioning regarding the very topical and increasing problem of blocking cross-border media.

The stocktaking part of the communiqué involves providing an overview of the legal and political instruments governing participating States’ legal obligations and political commitments to freedom of the media, freedom of expression and the free flow of information. First, the communiqué gives an inventory of the most pertinent OSCE commitments: a roll-call with a brief explanation of the essence of each document. The communiqué then shifts focus to relevant international standards, in particular Article 19 of the International Covenant on Civil and Political Rights (ICCPR). This stocktaking exercise serves a clear purpose. The Representative is clarifying the legal and political framework within which participating States and her Mandate operate; the standards that should shape their behaviour.

Having clarified the nature and scope of participating States’ commitments, the Representative can face the future and does so by recommending to States that they improve how they honour their commitments generally, and – flowing from those commitments - that they take a number of specific lines of action.

This approach has resulted in the 2021 Communiqué being rather long. On the eve of the 25th anniversary of the Office of the Representative, however, this was a timely occasion to take stock and look forward. Future communiqués will not necessarily need to engage in such stocktaking – cross-referencing will suffice.

Communiqué on the right of the media to freely collect, report and disseminate information, news and opinions, regardless of frontiers	
<i>Context/Focus</i>	<i>Recommendations</i>
<p><i>Media freedom is dependent on a vibrant and competitive media landscape, with a variety of voices. This includes the freedom to perform journalistic duties abroad – something that is also considered crucial for strengthening a climate of trust and co-operation within the OSCE region. Unfortunately, media coming from, or having ties to parties in, another participating State are frequently obstructed from doing their work. This is in opposition to the right on freedom of the media and inconsistent with some of the longstanding OSCE principles and commitments.</i></p>	<p>the OSCE participating States: should live up to their many commitments regarding the freedom to perform journalistic duties abroad, also with a view of strengthening a climate of trust and co-operation within the OSCE region;</p>
	<p>should endeavour to promote more debate and open, diverse and dynamic media environment, also on issues that they deem “foreign” or “not correct”;</p>
	<p>should permit media workers and media outlets coming from, or having(financial) ties to parties in, another participating State to enter the territory to be able to perform their journalistic work, including media that report or disseminate messages that the authorities deem to be unwanted;</p>
	<p>should live up to their commitment, as described in the 2018 OSCE MC Decision, that all political leaders, public officials and/or authorities should “refrain from intimidating, threatening or condoning – and to condemn unequivocally – violence against journalists”, including when it concerns media coming from, or having ties to parties in, another participating State;</p>
	<p>should refrain from stigmatising, or labelling them as “foreign agent”, media workers and media outlets coming from, or having (financial) ties to parties in, another participating State;</p>
	<p>should apply the same standards, including possible restrictions, for media workers and media outlets coming from, or having (financial) ties to parties in, another participating State as they do for media workers and media outlets from their own territory. This should include media that report or disseminate messages that the authorities deem to be unwanted;</p>
	<p>should refrain from using a system of accreditation as a means of hindering media workers and media outlets coming from, or having (financial) ties to parties in, another participating State;</p>
	<p>should refrain from restrictive measures on media workers and media outlets coming</p>

	<p>from, or having (financial) ties to parties in, another participating State, unless prescribed by law and in the pursuit of a legitimate aim in line with the OSCE principles and commitments;</p>
	<p>should, when they consider the imposition of restrictions to be in the pursuit of a legitimate aim as provided by international law and OSCE principles and commitments, always make sure that the concerned media have remedial recourse to a functioning independent judiciary.</p>

The final communiqué to be considered in this section is Communiqué No. 1/2022 - A call to protect media freedom during armed conflict and to stop propaganda for war. It provides strongly-worded reaffirmation of issues dealt with in earlier communiqués addressed above. The Representative immediately launches into the key message of the communiqué: “I condemn strongly the full-scale military attack that the Russian Federation has launched against Ukraine and I deeply deplore the immense human suffering it has inflicted on the Ukrainian people”. The Representative then focuses on the negative impact on the safety of journalists and media freedom.

The Representative then sets out some fundamental principles and international standards and OSCE commitments that govern situations of armed conflict and war, grouped under the themes: safety of journalists, disinformation and censorship and propaganda for war.

The communiqué recalls that journalists, media professionals and associated personnel working in conflict areas have civilian status and shall be protected as civilians. Participating States should take measures to protect media organizations and media infrastructure from military attacks. Furthermore, missing journalists should be traced and provided with appropriate assistance and their return to their families should be facilitated.

The communiqué uses strong language on the exploitation of the media to spread harmful disinformation in the context of armed conflict: participating States violate their OSCE commitments when they use media restrictions and harassment to deprive the public of access to information and the media. The Representative repeats her Office’s long-standing position that “the answer to counter disinformation can never be found in a blanket ban; a complete shutdown of the internet; or fully blocking media outlets from their possibility to disseminate information”. She also describes as “censorship” governmental demands that journalists and the media only information from official sources when reporting on military action.

Relevant provisions of international standards requiring States to prohibit propaganda for war are recalled, with emphasis on the importance of the free flow of information over national borders, so that peoples can access information about, and understand, what is taking place in other countries.

The Representative also underscored the right “for a sovereign state like Ukraine to advocate, including through the media, for the sovereign right of self-defence, as spelled out in the United Nations Charter”.

The Representative returns to the above principles in her conclusions, calling on participating States to ensure the safety of all media workers; refrain from exploiting the media to spread harmful disinformation in the context of armed conflicts; refrain from resorting to blanket bans of media, complete shutdowns of internet and other forms of “*de facto* censorship”; and to refrain from propaganda for war due to its “heinous nature”.

Communiqué - A call to protect media freedom during armed conflict and to stop propaganda for war	
<i>Context/Focus</i>	<i>Conclusions/Recommendations</i>
<i>I condemn strongly the full-scale military attack that the Russian Federation has launched against Ukraine and I deeply deplore the immense human suffering it has inflicted on the Ukrainian people. Unfortunately, these developments are leading to a further decline in the safety of journalists and a deterioration of media freedom in the region. At the same time, we know that it is the free, independent, and professional media that can defend the values of peaceful co-existence and mutual understanding, thus positively contributing to early warning; conflict prevention; crisis management and post-conflict rehabilitation. In this communiqué, I will stress some fundamental principles and OSCE commitments that are applicable in situations such as the current one.</i>	<p>Guaranteeing the safety of journalists, also in times of armed attacks and conflicts, is a principled commitment of all OSCE participating States. I therefore call upon all participating States to safeguard all media workers in our region.</p> <p>Exploitation of the media for harmful disinformation in the context of an armed conflict; a blanket ban of media access; a complete shutdown of internet; a full blockade of media outlets from their possibility to disseminate information; and <i>de facto</i> censorship – these all go against the well-established principles of freedom of the media and relevant commitments in our region. Therefore, I call on all OSCE participating States to refrain from such practices.</p> <p>The heinous nature of propaganda for war requests a particular strong call from my side on all OSCE participating States to refrain from such practice.</p>

4.2 Emerging threats to freedom of the media and freedom of expression

The category, emerging threats to freedom of the media and freedom of expression, comprises a disparate set of themes which have the common characteristic of addressing specific issues or incidents that pose a threat to, violate, or raise concern for, freedom of the media and freedom of expression. All of the thematic focuses are topical and emerging; many of them were shaped by flashpoint incidents or developments in society.

4.2.1 Fighting extremism, intolerance and discrimination, and terrorism

The first cluster of communiqués discussed in this section focuses on extremism (Communiqué 06/2014), tolerance and non-discrimination (Communiqué 01/2015) and the fight against terrorism (Communiqué 06/2016).

In Communiqué on the impact of laws countering extremism on freedom of expression and freedom of the media, the Representative responds to a problematic development in some

participating States’ legislative responses to extremism. The Representative was concerned that the use of vague terms in anti-extremism laws, and the failure to define the criteria and safeguards for the implementation and enforcement of those laws, would unduly restrict the right to freedom of expression. The Representative stated:

“Anti-extremism laws can be particularly dangerous for free media when they fail to clearly define the notion of extremism, and use a heterogeneous, wide or open list of offences that are generally grouped as extremist. These offences may include “public explanation and justification of terrorism,” “agitation of social enmity,” “propaganda of religious superiority,” “libelous accusations of extremism against public officials,” “provision of information services to extremists,” and “hooliganism” motivated by hatred.”

The Communiqué recalls the strict criteria that national anti-extremism laws – or any laws that restrict the right to freedom of expression – have to meet under OSCE commitments and international human rights law, in particular Article 19 ICCPR.

Communiqué on the impact of laws countering extremism on freedom of expression and freedom of the media	
<i>Context/Focus</i>	<i>Recommendations</i>
OSCE participating States are responding to threats from extremists by creating laws that include provisions which might seriously limit free expression and free media online and offline.	Anti-extremism laws only should restrict activities which necessarily and directly imply the use of violence.
	Limits to free expression and free media imposed by anti-extremism laws should respect OSCE commitments and international law, notably article 19 of the International Covenant on Civil and Political Rights.
	Hate speech can be addressed if it directly incites to violence and leads to hate crimes, particularly targeting minorities and other vulnerable groups.

The first communiqué of 2015 - on “freedom of expression and freedom of the media as a vital condition for tolerance and nondiscrimination” – was a direct response to, and a strong condemnation of the attack on the editorial offices of the French satirical magazine, *Charlie Hebdo*, in which 12 persons were murdered and several others were wounded. The communiqué draws and builds on the conclusions of a roundtable organised by the Office of the RFoM on 18 December 2014.

In the communiqué, the Representative recalls the transnational and global nature of speech and the need for democratic societies to protect pluralistic debate where some speech may offend, shock or disturb. The Representative calls for the full decriminalisation of defamation, insult and blasphemy laws. She also considers that “intolerant speech should be primarily fought with more speech and media literacy”. There are, however, “exceptional cases” in which “some types of speech, such as calls to violence or harassment against communities or certain parts of the society, are not acceptable”.

Communiqué on freedom of expression and freedom of the media as a vital condition for tolerance and nondiscrimination	
<i>Context/Focus</i>	<i>Recommendations</i>
<p><i>The world is mourning the horrific terrorist attack on the satirical magazine Charlie Hebdo in which 12 people were murdered and several people wounded. Eight of the victims were Charlie Hebdo staff: Stéphane Charbonnier aka Charb, Jean Cabut aka Cabu, Bernard Verlhac, aka Tignous, Georges Wolinski, Bernard Maris, aka Oncle Bernard, Philippe Honoré, aka Honoré, Elsa Cayat and Mustapha Ourrad. This is the worst single attack against journalists in the OSCE region since the establishment of this Office.</i></p> <p><i>It is encouraging that the political leaders from all corners of the world and leaders of major religious communities condemned this brutal cold-blooded murder. Condemnation is not sufficient. Action speaks louder than words. I call on all political leaders to honor the memory of the victims by improving the safety of journalists and ensuring that freedom prevail.</i></p> <p><i>The conclusions from the roundtable “Freedom of expression for tolerance and non-discrimination,” organized by my Office on 18 December 2014, have unfortunately become even more relevant today.</i></p>	<p>Freedom of expression and freedom of the media are vital for the promotion of tolerance and non-discrimination.</p>
	<p>Participating States should continue to improve the safety of journalists and ensure that freedoms prevail.</p>
	<p>Participating States should fully investigate all attacks and prosecute the perpetrators and masterminds to the full extent of the law. There must be no impunity for attacks on journalists.</p>
	<p>Participating States should refrain from banning any form of public discussion or critical speech, no matter what it refers to.</p>
	<p>Participating States must take all the possible measures in order to fight all forms of pressure, harassment or violence aimed at preventing opinions and ideas from being expressed and disseminated.</p>
	<p>Participating States should eliminate restrictions to freedom of expression on the exclusive grounds of hatred, intolerance or potential offensiveness. Legislation should only focus on speech which can be directly connected to violent actions, harassment or other forms of unacceptable behavior against communities or certain parts of society.</p>
	<p>Intolerance should primarily be dealt with in a discursive and therefore tolerant way. The role of civil society, media, international watchdogs and the effect of counter-intolerant speech must be particularly considered.</p>

A spate of terrorist attacks across the OSCE region prompted the Representative to address the relationship between freedom of expression and the fight against terrorism in Communiqué No. 6/2016. The Communiqué references OSCE Ministerial Council Declarations on Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism and on Counter-terrorism,¹⁵ as well as relevant provisions of international human rights law. The Joint Declaration on Freedom of Expression and Countering Violent Extremism by

¹⁵ OSCE Ministerial Declaration on Preventing and Countering Violent Extremism and Radicalization that lead to Terrorism, MC.DOC/4/15, 4 December 2015; OSCE Ministerial Declaration on Reinforcing OSCE Efforts to Counter Terrorism in the Wake of Recent Terrorist Attacks, MC.DOC/3/15, 4 December 2015.

Representative and the other Specialized International Mechanisms on freedom of expression is given specific mention.¹⁶

The Communiqué sets out a strong case for freedom of expression, as exercised through the media, online and via digital technologies, as a foil for the spread of hateful propaganda and attempts by terrorists “to incite acts of terrorism, recruit and radicalize new members”. It stresses the importance of the public’s right to information in relation to terrorism, which implies access to pluralistic information. Journalists’ freedom and safety are crucial prerequisites for ensuring that the public has effective access to such pluralistic information. The importance of the right of journalists to protect the confidentiality of their sources is underlined. The Communiqué points to the dangers for journalists and journalistic activities posed by anti-terrorism laws that criminalize the disclosure of classified information and governments’ increasing use of mass surveillance to combat terrorism.

Communiqué on free expression and the fight against terrorism	
<i>Context/Focus</i>	<i>Recommendations</i>
<p><i>Terrorist attacks have shaken the OSCE region and beyond causing horror, fear, anger, grief and despair. The attacks have forcefully added to the OSCE participating States’ concerns about how to prevent and fight terrorism to keep our societies safe.</i></p> <p><i>The attacks and attendant national security concerns are altering and challenging our thinking about human rights and fundamental freedoms, including the right to free expression and media freedom. But unduly restricting those rights runs counter to fundamental principles of the OSCE, as stated most recently in the Astana Declaration in which participating States reiterated the commitment to comprehensive security relating the maintenance of peace to respect for human rights.</i></p>	<p>the OSCE participating States:</p> <p>(i) Ensure journalists’ freedom and safety at all times, including while reporting on terrorism.</p>
	<p>(ii) Recognize that free expression and the use of new technologies are also tools to fight terrorism by creating social cohesion and expressing alternative narratives.</p>
	<p>(iii) Clearly and appropriately define, in line with international human rights law, the notions of violent extremism, terrorism, radicalization and other terms used in legislation, programs and initiatives aimed to prevent and counter terrorism.</p>
	<p>(iv) Acknowledge that the media has a right to report on terrorism. Requests for media blackouts of terrorist activities must be avoided and media should be free to consider, based on ethical standards and editorial guidelines, available information to publish in the public interest.</p>
	<p>(v) Fully respect the right of journalists to protect sources and provide a legal framework securing adequate judicial scrutiny before law enforcement and intelligence agencies can access journalists’ material in terror investigations.</p>
	<p>(vi) Refrain from indiscriminate mass surveillance because of its chilling effect on free expression and journalism. Targeted surveillance should be used only when</p>

¹⁶ The Specialized International Mechanisms on freedom of expression, Joint Declaration on Freedom of Expression and Countering Violent Extremism, 3 May 2016.

	strictly necessary, with judicial authorization and independent control mechanisms in place.
	(vii) Acknowledge that anonymity and encryption technologies may be the only guarantee for safe and secure communications for journalists and therefore are a prerequisite for the right to exercise freedom of expression. Blanket prohibitions are disproportionate and therefore unacceptable, and encryption regulation introducing “backdoors” and “key escrows” to give law enforcement and intelligence access to “the dark web” should not be adopted.
	(viii) Only restrict content that is considered a threat to national security if it can be demonstrated that it is intended to incite imminent violence, likely to incite such violence and there is a direct and immediate connection between the expression and the likelihood of occurrence of such violence.
	(ix) Review applicable laws and policies on counter-terrorism and bring them in line with the above principles.
	the OSCE participating States: (i) Ensure journalists’ freedom and safety at all times, including while reporting on terrorism.

4.2.2 Rights and safety of journalists reporting on the refugee crisis

Governmental responses to the refugee crisis in Europe had significant ramifications for media freedom. The Representative was alert to this and made several interventions in participating States where the media were obstructed by law enforcement authorities in their reporting on the refugee situation. The Council of Europe commissioned a study on relevant issues around the same time¹⁷ and the European Court of Human Rights emphasized in its *Szurovecz v. Hungary* judgment the heightened public interest in reporting on deplorable living conditions in a centre for asylum-seekers.¹⁸ The Court also stressed the importance of first-hand reporting and direct access to the centre and its inhabitants. The thrust of the communiqué and some key findings of the Court (three years later) are strikingly similar, but the Court did not reference the communiqué.

Communiqué on the rights and safety of journalists reporting on refugees	
<i>Context/Focus</i>	<i>Recommendations</i>

¹⁷ Myria Georgiou and Rafal Zaborowski, ‘Media coverage of the “refugee crisis”: A cross-European perspective’, Council of Europe report DG1(2017)03, available at: <https://rm.coe.int/media-coverage-of-the-refugee-crisis-a-cross-european-perspective/16807338f7>

¹⁸ *Szurovecz v. Hungary*, No. 15428/16, 8 October 2019.

<p>The refugee crisis in Europe is a multi-faceted challenge for Governments and international organizations and it also has implications for freedom of the media. Guaranteeing the rights and safety of journalists reporting on this issue is a basic pre-condition for providing the public with information.</p> <p>The arrival of high numbers of refugees in several participating States has had a significant impact on the principles and policies including border management, immigration and refugees' policies, social assistance, prevention of crime, protection of privacy, and protection of minors, among many others.</p> <p>Public intervention in these areas should not interfere with the work of members of the media to fulfill their responsibility to report on matters of public interest.</p>	Participating States should instruct immigration and other law enforcement agencies to respect the right of journalists and other media actors to report on issues of public interest and to ensure their safety;
	Participating States must not make use of broad and general notions of public safety or national security in order to prevent journalists from accessing sensitive areas or report on all aspects of the crisis. State authorities should facilitate journalists' access to areas and locations where stories related to the crisis develop: border areas, refugee camps and other relevant facilities;
	State authorities should allow journalists to interview or have contact with refugees in order to report on personal stories and current living conditions;
	Participating States will respect and promote media self-regulatory mechanisms in order to strengthen ethical reporting on these issues.

4.2.3 Criminal defamation laws and foreign heads of state

The Communiqué is aligned with the European Court of Human Rights' case-law and key principles on freedom of expression and criticism of politicians. In light of their public function, which they knowingly assume, politicians must expect and tolerate higher levels of scrutiny and criticism than ordinary individuals. This general principle, first articulated in the *Lingens* judgment in 1986,¹⁹ has held sway since. It has also been developed in respect of (foreign) heads of state: the Court has found violations of the right to freedom of expression in several cases involving criminal convictions for insulting or defaming (foreign) heads of state.²⁰ The language of the Communiqué bears strong resemblance to that of the Court, but it does not reference specific case-law.²¹ The Communiqué sticks to the “strong position and consistent policy” of the Representative “to promote the abolition of all criminal defamation laws”. In this regard, it goes farther than the Court.²²

This issue was propelled into the news by the fall-out from German comedian Jan Böhmermann's satirical portrayal of Turkish President Erdogan. Relying on an old and rarely-used provision in the German Criminal Code criminalizing insults against foreign heads of state, Erdogan instituted criminal proceedings against Böhmermann. The charges were

¹⁹ *Lingens v. Austria*, No. 9815/82, 8 July 1986.

²⁰ See, for example: *Colombani and Others v. France*, No. 51279/99, 25 June 2002; *Artun and Güvener v. Turkey*, No. 75510/01, 26 June 2007.

²¹ For an overview of relevant case-law, see: Tarlach McGonagle *et al.*, *Freedom of expression and defamation: A study of the case-law of the European Court of Human Rights* (Council of Europe Publishing, 2016), pp. 32-34, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ac95b>.

²² *Ibid.*, pp. 56 *et seq.*

subsequently dropped when the public prosecutor could not find sufficient evidence for the offence and the provision itself was repealed in 2018.

Communiqué on criminal defamation laws protecting foreign heads of state	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Criminal defamation laws, meant to protect honour and dignity from untrue or other kinds of libelous statements exist in many of the OSCE participating States. These archaic laws have been a common means of legal pressure on the media. Regardless of whether latent or actively applied, criminal defamation laws are generally used to protect the powerful from criticism. The threat can lead to self-censorship. Laws protecting the dignity of foreign heads of state are especially problematic. Journalists faced with the criminal liability for insulting foreign heads of state are typically not allowed to present truthful facts in their defence.</i>	OSCE participating States: (i) recognize that wherever they exist, criminal provisions that protect heads of foreign states impinge on the right of media to freely publish news as well as the public’s right to receive information and ideas; (ii) accept that criminal provisions must be interpreted in the context of international obligations and best practices in the OSCE region on media freedom; (iii) encourage legislatures to repeal laws shielding of heads of foreign states from criticism solely because of their function or status.

4.2.4 ‘Dronalism’

The communiqué on using drones for journalism addresses the potential of using remotely piloted aircraft (better known as ‘drones’), equipped with cameras, for information-gathering purposes. Drone journalism, or ‘dronalism’, offers novel opportunities for journalism, but because a drone is technically an aircraft, aviation regulation and media regulation are intersecting for the first time. The right to freedom of expression and journalistic freedom, which covers the preliminary processes of news-gathering, is of central importance, but these rights have to be balanced with the right to privacy and other rights, as relevant. The communiqué opens up the regulatory, ethical and safety issues and the Representative directed her specific recommendations to participating States on the one hand, and media organisations on the other hand.

Communiqué on using drones for journalism	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Freedom of the media is mainly thought about as the freedom to disseminate particular content. In fact it very much concerns the technology to collect and disseminate the content. I decided to raise certain issues related to the recent introduction of a technology that facilitates journalism and provide input into a mostly unexplored debate on the use of drones for media reporting purposes.</i>	participating States: (i) recognize that a use of drones by the journalists for newsgathering purposes engages a subset of the right of the media to publish news as well as the public’s right to receive information and ideas; (ii) accept that it is not akin to other civilian uses of RPAs because the publication of news - and acts precedent thereto - is not just an activity comparable to others, but is an exercise of freedom of the media;

	(iii) encourage a legal and regulatory regime for the deployment of RPAs nationally which recognizes dronism's unique and legitimate function for newsgathering purposes in the public interest.
	media organizations to: (i) adopt a proactive, rational and balanced approach to this new technology which merits serious investigation and analysis into its uses and potential for aiding and facilitating news gathering;
	(ii) engage with national aviation regulators in order to make sure that the interests of newsgatherers are not arbitrarily excluded from the rule making regime for the deployment of drones, having special regard to the intrinsic connection between newsgathering using aircraft and the public's right to know;
	(iii) be aware of the accumulating evidence that the public has a high degree of faith in the operations of the professional drones to be sustained in terms of traceability, accountability and safety of reporting.

4.2.5 Floating focuses: a European Court of Justice ruling and the digital switchover

The final two communiqués to be discussed in this section differ from the others insofar as they take note of or address developments in other international fora and do not really set out (detailed) recommendations for OSCE participating States. The communiqués are on a ruling of the European Union Court of Justice (2014) and on the digital switchover (2015).

The Court of Justice ruling is the famous *Google Spain* case, in which the Court ruled that Google must remove links to outdated or irrelevant personal information from search results upon request – a so-called right to be forgotten.²³ The tone is cautionary, stressing the importance of ensuring the accessibility of information about the activities of public figures and warning about the imposition of restrictions or liability on websites or intermediaries such as search engines. “Undue restrictions on media and journalistic activities” can lead to “soft or self-censorship” and are “unacceptable regardless of distribution platforms and technologies”.

The Representative does not issue any recommendations as such. Instead, she makes a statement of intent in light of the above concerns, namely that her Office “will closely monitor the effect and implementation of the decision by national authorities and will oppose any attempt to stifle the role of or diminish instruments available to investigative journalists”.

²³ Court of Justice of the European Union, Case C-131/12, *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, 13 May 2014, EU:C:2014:317.

The context and sole recommendation of the Communiqué on the digital switchover are set out below.

Communiqué on the digital switchover	
<i>Context/Focus</i>	<i>Recommendations</i>
<p>In accordance with the rules agreed within the International Telecommunications Union (ITU), the switchover from analogue to digital terrestrial broadcasting in a significant part of the OSCE area is to be completed today, 17 June 2015.</p> <p>As already stressed in the Guide to the Digital Switchover published by my Office in 2010, this is mainly a technological change, but it is designed also to facilitate the creation of a media landscape protecting freedom of expression and plurality of opinions.</p> <p>Several OSCE participating States have completed this process, while others are still approaching the switchover.</p>	<p>OSCE participating States to complete the digital switchover as soon as possible, using legal reforms and policies primarily based on the promotion of media freedom and pluralism.</p>

The body of the communiqué provides further insights into the importance of the digital switchover, describing a full transition to digital terrestrial broadcasting as “a basic precondition for the effective creation of an environment where as many voices as possible are able to be heard”. The expected vast increase in communication capacities for individuals, beyond traditional media, is also noted. Once again, the aim here is to secure an enabling environment for media freedom. The Representative is critical of how restrictive approaches by some participating States have prevented independent media from finding “a proper space in the new landscape” and have failed to seize the “opportunity to transform the remaining state broadcasters into independent public service media”.

4.3 Signature themes

The category, signature themes, has two main focuses: open journalism and safety of female journalists online. These focuses correspond to two flagship projects of the Office in recent years. The RFoM was quick to realise the growing importance of both themes, and embedded them in large projects that deepened understanding of the legal and societal issues involved, and raised awareness of them.

4.3.1 Open journalism

The open journalism project ran between 2014 and 2015. It had multiple prongs and its momentum was maintained through three expert workshops, each of which generated wide-ranging discussions and a communiqué building on those discussions.²⁴

The first workshop explored the notion of ‘open journalism’, how a growing array of actors contribute to public debate, thereby wresting journalism from the tight control of institutional media and professional journalists. This opening up creates opportunities for more democratic and inclusive participation in public debate, but it also leads to risks of fragmentation and the accelerated dissemination and amplification of poor quality of information. The workshop examined the interplay between old and new actors and the scope of the freedoms, duties and responsibilities shaping the increasingly varied and crowded space of public debate.

The second workshop zoned in on the human rights and legal implications of open journalism. There was a more specific focus on the role of journalists in an era of open journalism: their continued importance, how they interact with new breeds of public watchdog and what adaptive strategies they would need to ensure their relevance as purveyors of accurate information and analysis in the public interest. A second specific focus was the protection of online media freedom.

The third workshop continued the discussion by turning to the role and importance of internet intermediaries in open journalism; how they have emerged as powerful gate-keepers or gate-watchers of information in the online environment; and how their relationship with states authorities continues to evolve.

The specific recommendations issued after the three expert meetings amount to a list of action lines for OSCE participating States, as set out below:

Communiqué 05/2014 (First Expert Meeting)	
1	The participating States need to acknowledge that journalism has irreversibly changed and that new actors are contributing to the public debate through the media.
2	The participating States need to refrain from trying to define who is a journalist. It was difficult to define who is a journalist 25 years ago; it is even more complex today.
3	The new media actors need to enjoy at least some of the protection and privileges that were in the past only granted to traditional media.
4	There is a clear need to improve “media and Internet literacy” in order for the public to have a better understanding of the new environment and to enable to critically assess where the information is coming from.
Communiqué 07/2014 (Second Expert Meeting)	
5	The participating States need to recognise that the new participants in journalism act as public watchdogs, contribute to a free and open society, make systems of government more accountable, and foster democratic development by connecting people and building bridges between nations.

²⁴ For an overview of the project, its key output and additional analysis, see: T. McGonagle *et al.*, *Open Journalism: The Road Travelled and the Road Ahead* (Vienna, OSCE Representative on Freedom of the Media, 2018).

6	The participating States need to ensure that the Internet remains an open platform for free flow of information and ideas, and that any proposals to regulate the Internet properly respect and promote freedom of expression and freedom of the media.
7	Online content should be dealt with as any other form of expression, and there is therefore no need to create new principles of regulation to deal with illegal or harmful content.
8	The new media actors should also enjoy some if not all of the privileges that were in the past only granted to traditional journalists. They might include, but not necessarily be limited to confidentiality of sources, media accreditation, information requests, and perishability of news.
9	The existing national systems of media self-regulation should be open to new media actors.
Communiqué 01/2016 (Third Expert Meeting)	
10	Public authorities should protect freedom of expression, media freedom and the free flow of information in all the facets and areas of the online world. The important presence and role of intermediaries should not endanger the openness, diversity and transparency of Internet content distribution and access.
11	Excessive and disproportionate provisions regarding content takedown and intermediaries' liability create a clear risk of transferring regulation and adjudication of Internet freedom rights to private actors and should be avoided. States should also discourage intermediaries from automatizing decisions with clear human rights implications.
12	International documents on human rights responsibilities for non-state actors, as well as multi-stakeholder debates and initiatives such as the Manila Principles, should be given due consideration in this area.
13	The legitimate need to protect privacy and other human rights should not undermine the principal role of freedom of the media and the right to seek, receive and impart information of public interest as a basic condition for democracy and political participation.
14	Making private intermediaries more transparent and accountable is a legitimate aim to be pursued by participating States through appropriate means. However, this must not lead to excessive control by public authorities over online content.
15	Decisions addressed to intermediaries establishing restrictions or ordering the takedown of Internet content should be adopted according to law, by judicial or other independent adjudicatory authorities, following due process and with full respect to the principles of necessity and proportionality.

4.3.2 Safety of female journalists online (#SOFJO)

The Communiqué on the growing safety threat to female journalists online is arguably the most influential communiqué to date. In choosing this topic, the Representative demonstrated keen awareness of a deep-lying and very pressing problem that had previously been underappreciated and underexplored in wider law- and policy-making circles. The communiqué really put the safety of female journalists online on the map. The issues and

problems it identified informed later standard-setting, both at the OSCE²⁵ and elsewhere, e.g. the Council of Europe.²⁶

The Office of the RFoM subsequently developed its #SOFJO project, which ran for a number of years, conducting pioneering work gathering evidence and powerful testimonies from female journalists; framing the issues as not exclusively a problem for women, but of society as a whole and from the perspective of pluralism and equality; engaging in information-sharing; awareness-raising, resource- and capacity-building; and organising activities exploring solutions to the problems.

The Communiqué and the #SOFJO project moved swiftly from mapping the context and problems to practical engagement. The Communiqué was ahead of the broader international curve that followed and indeed provided important direction to that curve in the specific recommendations set out below.

Communiqué on the growing safety threat to female journalists online	
<i>Context/Focus</i>	<i>Recommendations</i>
<i>Digital media today allows for the fast flow of information and the public's active participation in sharing ideas, news and insight. In this online world, journalists are more exposed and available to their readers than ever before. An open and free Internet is desirable for the creation of public debate and should be duly protected. At the same time, the digitalization of media has made journalists and other online voices more vulnerable to threats and intimidation of different shapes and forms.</i>	Acknowledge the gravity of the problem and put it on the agenda now. In cases of journalists being threatened and intimidated, a strong public condemnation by political and public figures is required in order for the public to recognize that this behaviour is not accepted and will not be tolerated.
	Give priority to improving the conduct of law enforcement agencies. Threats and harassment online that amounts to criminal offenses should be dealt with in the same way as offline offenses. Police need better training and other tools to get a greater understanding of how to investigate threats and other criminal offenses that take place online.
	When new laws are drafted be aware of the chilling effects that laws aimed at restricting speech may have. In most countries, existing criminal legislation and other laws aimed at combating harassment and discrimination can be used to deal with the problem. It is not recommended to require public identification of online speech even though anonymous speech may give perpetrators an added layer of protection.

²⁵ OSCE Ministerial Council Decision No. 03/18, "Decision on the Safety of Journalists" (MC.DEC/3/18. Milan, 7 December 2018); OSCE High Commissioner on National Minorities, Tallinn Guidelines on National Minorities and the Media in the Digital Age, 1 February 2019, available at: <https://www.osce.org/hcnm/tallinn-guidelines>.

²⁶ See, for example: Recommendation CM/Rec(2016)4 of the Council of Europe's Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors, 13 April 2016.

	Invest in media and Internet literacy to inform and improve citizens' capacities to contribute to healthy and constructive media environments. Encourage and sponsor campaigns raising the awareness of the problem and how to deal with it.
	Encourage more data and research and support non-governmental organizations that address the issue.
	call upon the media themselves to pay close attention to the phenomenon. Any threats to journalists must be duly reported to the police. The media may also invest in active participation and moderation of online debates to uphold a plural, free and safe environment for journalists.

The Communiqué on Media Pluralism, Safety of Female Journalists and Safeguarding Marginalized Voices Online, adopted in 2019, returned to the issues around safety of female journalists. It is a coming-of-age text of sorts, which re-affirms the urgency of the 'double burden' faced by female journalists when they are targeted because of their gender *and* their journalistic activities. This could even be considered a 'triple burden' in light of the intensifying impact of threats and hate disseminated online.

The coming-of-age nature of the text is also emphasised by the repeated framing of these issues in terms of media pluralism and the explicit inclusion of marginalized voices in society, understood more widely.

It is noteworthy that the communiqué directs specific recommendations not only at participating States, but also at (news and) media organisations and internet intermediaries, which underscores the need for a coherent and coordinated multi-stakeholder approach to the complex issues at hand.

Communiqué on Media Pluralism, Safety of Female Journalists and Safeguarding Marginalized Voices Online	
<i>Context/focus</i>	<i>Recommendations</i>
<i>Across the OSCE region, online violence continues to raise the stakes for women speaking, blogging, writing and reporting in the public sphere every day. It has been four years since the OSCE Representative on Freedom of the Media raised this issue in the Communiqué 02/2015 on the growing safety threat to female journalists online and initiated the Safety of Female Journalists Online (SOFJO) project. During this time we have heard countless testimonies about sexual harassment, strategic attacks,</i>	(i) Media outlets should ensure that newsrooms reflect the diversity of the societies they serve, so as to contribute to ensuring a multitude of perspectives; (ii) It is crucial that governments, newsrooms and internet intermediaries take not only a gender-sensitive, but also a multi-faceted approach, addressing layers of discrimination and obstacles to participation, at all stages of planning and implementation to ensure genuine plurality and a diversity of female voices.

<p><i>disinformation and smear campaigns targeting female journalists. These attacks pose a threat to freedom of expression and access to information, and must urgently be addressed.</i></p>	<p>(i) The existing harassment laws should be considered to ensure the flexibility inherent in some of those laws, especially in the cases of harassment that is of a sexual and sexist nature;</p>
	<p>(ii) Current legal frameworks should be periodically reviewed and monitored to ensure that existing laws are being effectively implemented and equally applicable online;</p>
	<p>(iii) We call for a review of national legislation in line with OSCE MC.DEC/3/18 on <i>Safety of Journalists</i> to “condemn publicly and unequivocally attacks on women journalists in relation to their work, such as sexual harassment, abuse, intimidation, threats and violence, including through digital technologies”.</p>
	<p>(i) Ensure that law enforcement agencies train staff to identify online threats to safety within the framework of existing legislation, in line with international human rights standards;</p>
	<p>(ii) Ensure that officials tasked with the implementation of policy, especially as relates to internet regulation, gender equality, and participation of marginalized groups, be provided digital literacy training.</p>
	<p>(iii) Encourage <i>strategic</i> coordination among the police, prosecutors and media organizations, and to promote reciprocal understanding.</p>
	<p>(i) News and media organizations must ensure that journalists and other media actors have access to a comprehensive system of support including digital security tools, psychosocial and legal assistance;</p>
	<p>(ii) Such resources should be made available to all media actors to support and enhance their safety online and offline;</p>
	<p>(iii) Media organizations should develop protocols for responding to online harassment, with a specific gender component, and make them available to all contributing journalists and other media actors.</p>
	<p>Recommendations to Internet intermediaries:</p> <p>(i) Human rights must be central to private sector design, deployment and</p>

	<p>implementation of artificial intelligence systems; this includes the need to update national regulatory frameworks, community guidelines, and undertake impact assessments and audits of artificial intelligence technologies and ensure effective external accountability mechanisms;</p> <p>(ii) Internet intermediaries should increase transparency on where and how machine learning technologies are used on their platforms. They should also regularly collect, analyse, and report publicly on sex-disaggregated data related to online abuse and its effects, including by creating a database of specific occurrences/incidents and follow-up with policy/law-enforcement.</p> <p>Recommendations to governments:</p> <p>(i) Establish regular multi-stakeholder dialogue involving all main actors, including female journalists and media organizations, intermediaries and state authorities to ensure a holistic and systematic response to online harassment;</p> <p>(ii) Foster the development of innovative responses to online harassment, with the input of all stakeholders, in line with the international human rights standards.</p>
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5. Conclusions and recommendations

The above analysis of the OSCE RFoM’s first 20 communiqués prompts a number of conclusions and recommendations. The communiqués address a very wide variety of themes, some of which have had a central place in OSCE commitments on freedom of expression and information and media freedom for a long time. Others are cutting-edge or emerging themes that fall within the scope of the RFoM’s Mandate. The communiqués’ flexible format has helped them to engage in political prioritisation, adapting the format of a given communiqué to meet its specific aims.

Another characteristic and strength of the communiqués is that they are a vehicle for the Representative to make timely interventions that go beyond run-of-the-mill press releases. They offer space also to address the wider ramifications of the specific issues addressed or emerging trends.

The structure and style of communiqués vary considerably. In order to consolidate the communiqués as a regular form of output/engagement by the Representative, they would need

to become more recognisable, with a clearer basic structure. Such a structure could include, for example:

- a distinct chapeau paragraph introducing and essentializing the issues or situation;
- an explanation of substantive issues and relevant OSCE commitments, international human rights law provisions, RFoM documents and activities (which could also be listed at the end of the document, for convenience of users);
- a brief analysis and critique of the identified problems/threats/opportunities;
- concrete general and specific recommendations issued in the first-person, bringing the authority of the Representative to bear on the issues at hand (as in Communiqué No. 1/2022, for example).

In future communiqués, more explicit cross-referencing of earlier communiqués and of other work by the OSCE RFoM would help to unlock synergies and reinforce consistent positions taken by the Representative.

Finally, given the suitability of communiqués for the Representative to engage with emerging themes, there is no shortage of suggestions for future themes: the problem of Strategic Lawsuits Against Public Participation (SLAPPs), which is gaining increased regulatory and policy attention at the European level; the relationship between artificial intelligence (AI) and freedom of expression/media freedom, which is the focus of a leading project by the Office of the OSCE RFoM - Spotlight on Artificial Intelligence and Freedom of Expression (#SAIFE); and media freedom in post-conflict societies, to name but a few.