



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

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Regular Report to the Permanent Council

Mr. Chairman, Ladies and Gentlemen,

Before going into my regular report I would like to start with a current issue: the case of imprisoned journalist Sergei Duvanov in **Kazakhstan**. Mr. Duvanov, sentenced earlier this year to 3,5 years in prison, had appealed his sentence. The appeals hearing was held on 11 March. All international observers were not allowed into the courtroom, the judge decided to hold a closed session. Among those who are monitoring the case are two experts from the Netherlands, our current Chairman-in-Office, and I am very grateful to the CiO for responding so quickly and positively to requests to help defend an imprisoned journalist.

The appeal of Sergei Duvanov was denied. More so, the alleged crime that he was sentenced for was changed to a harsher one although the prison term was left unchanged. I have followed Duvanov's case since the beginning and on several occasions, together with ODIHR, raised my concerns in reference to procedural irregularities in the trial. A refusal to allow international experts, including those from the OSCE Centre who were planning to observe the case on my behalf, raises even more questions regarding rule of law in Kazakhstan and the declared independence of the judiciary. I will continue monitoring the case closely and expect the authorities in Kazakhstan to ensure that during future court sessions international experts will be allowed to follow the proceedings.

Now, to my regular report, my first quarterly in my last year in Office as the OSCE Representative on Freedom of the Media. As before, my presentation is divided into two parts: oral and written. Let me start by focusing in this oral part on a situation many of us know well: democracies and their media at a time of armed conflict.

First, on the trans-Atlantic debate that is currently underway regarding Iraq. Increased political tensions sometimes tend to lead to biased reporting, or to quote from Paul Krugman from *The New York Times* to a "great trans-Atlantic media divide." There is a continued need for journalists to be responsible and objective, without succumbing in their professional work to biased nationalism.

There are two positive developments that the public debate in the US related to balancing national security concerns with civil liberties has triggered:

I took note of the American Screen Actors Guild statement issued on 3 March stressing that the entertainment industry must not blacklist people who speak out against war with Iraq. "Some have recently suggested that well-known individuals who express 'unacceptable' views should be punished by losing their right to work [...] Even a hint of the blacklist must never again be tolerated in this nation," reads their statement. I completely agree with the position of the Guild and its proactive approach.

In this forum I already spoke regarding Section 215 of the US Patriot Act that allows FBI agents to demand from any bookstore or public library its records of the books or tapes a customer has bought or borrowed. I understand that Representative Bernie Sanders of Vermont is preparing a bill in the House of Representatives repealing Section 215. I highly welcome this initiative.

One of the issues I have followed and dealt with at length concerns protection of journalists in times of war. Here, more can be done. Every conflict we have recently seen, be it Kosovo, Afghanistan, or Sierra Leone has increased the number of reporters killed in action. Any future conflict may again exacerbate the already sad statistics we report every year. That is why I continue to stress the need for governments, their armies, international peacekeeping forces to provide, when and where possible, logistic, medical and technical support to journalists.

The NGO community is doing a lot to help, including publishing valuable training manuals. The *Committee to Protect Journalists (CPJ)* has just issued a *Journalist Safety Handbook* that provides a wealth of information on training courses; protective gear; health insurance; on minimising risk in conflict zones; on embedding with combatants. This handbook is a valuable manual for hundreds if not thousands of reporters who usually descend into a war zone.

For example, simplifying access procedures to areas of conflict keep the journalists from looking for more "unorthodox" methods to get to the place where the action is, in perspective also saving lives. The invitation by the Pentagon to embed over 200 news organisations, including about 100 foreign ones, with US troops is a start if this is done correctly and does not include intrusive pressure to influence the editorial line of the media concerned.

Here, I tend to agree with the *CPJ* that "Whether or not to embed with any armed forces is a trade-off in nearly every case. A primary advantage of embedding is that a journalist will get a firsthand, front-line view of armed forces in action. A disadvantage is that journalists will only cover that single part of the story. There are other trade-offs as well. Embedded journalists run the risk of being mistaken for combatants. This is especially true if journalists wear military uniforms when embedding. If journalists are not embedded with troops and move about independently on the battlefield, they could find themselves being targeted by combatants on all sides of the conflict." To embed or not to embed is a question every journalist must decide for him/herself without any undue pressure. He or she will be in the area covering hostilities and it should be their call.

Whatever happens in Iraq and the region as a whole, I fear that the matter of democracies at war will continue being with us. That is why on some issues we can try to develop best-practices policies that are then followed or at least taken into account once a new crisis erupts. Policies that have worked in the past and may work in the future.

This year is the year of projects for my Office. They cover themes such as **Freedom of the Media and the Internet, Freedom and Responsibility: Media in Multi-lingual Societies**; The Impact of **Media Concentration on Professional Journalism**, and various others.

In the written part of my report I give a broader overview of these projects. My Office is ready to provide you with additional information on all the projects that we are involved in.

Thank you.

In **Croatia**, on 1 March a bomb destroyed the vehicle of Nino Pavic, an independent newspaper publisher. Pavic, along with Germany's WAZ media group, is the co-owner of *Europapress Holding (EPH)*, Croatia's largest newspaper publisher. A number of journalists at *EPH's* weekly *Globus*

were threatened after a series of articles about the criminal activities of several Mafia groups were published during the last few months. The police have initiated a criminal investigation into the bombing and are also examining the threats made against *Globus* journalists. I am very much impressed by the way the local authorities handled this case and I hope to receive additional information on the ongoing investigation. One thing that I have stressed on many occasions concerns the 'corrective function' of the media especially related to investigations along the lines of what is being published by *Globus*. Such attacks, if they are not treated with all due seriousness they deserve, may have a chilling effect on investigative journalism and in the end undermine the country's economic development.

In **Spain**, *Euskaldunon Egunkaria*, a Basque daily newspaper based in the northern town of Andoain, was closed by orders of the judge on 20 February because of alleged links to the armed terrorist group *ETA*. The paper reappeared on newsstands the next day under the new name *Egunkaria*. I also understand that hundreds of Civil Guard police officers raided the offices of *Euskaldunon Egunkaria* and the homes of its senior staff throughout the Basque region after a court ordered the paper's closure. I will continue monitoring this case.

In **Uzbekistan**, I have approached the authorities with concern about four journalists who have encountered legal difficulties in February. Gayrat Mehliboev, a reporter on religious issues for the newspapers *Khuriyat* and *Mokhiyat*, was sentenced on 18 February 2003 to seven years imprisonment for supporting the banned Hizb-ut-Tahrir Islamic group and thereby undermining the country's constitutional order. I am especially worried that information from one of his articles had been used against him during the trial. Three other journalists, Tokhtomurad Toshev, Oleg Sarapulov and Ergash Bobojanov, have recently been detained. I welcome the information provided by the Foreign Minister of Uzbekistan that these journalists have now been released; however, I am still expecting further information on the status of pending investigations into their activities.

In the **Russian Federation** I am following the circumstances surrounding the closure of *Noviye Izvestia* by its major shareholder. Without going into the business details of the conflict, I would like to stress that it is ominous that only media outlets that are critical of the government run into "problems" with shareholders. *Noviye Izvestia* was a vocal defender of individual human rights in Russia and a staunch critic of government abuse. Led by one of the most respected Russian editors, Igor Golembiovsky, it became a true bastion of hope for many who came to its offices looking for help. It publishes no more. My Office is in contact with *Noviye Izvestia*; its staff is currently looking at possible alternatives.

In **Turkmenistan**, I am very much appalled by the newly adopted definition of "treason" in this OSCE participating State. The country's Peoples Council has classified "treason" as, among other things, "fostering doubts among the people regarding the domestic and foreign policy of the first and permanent President of Turkmenistan the Great Saparmurat Turkmenbashi," as well as "defaming the state." The absurdity of these definitions is very clear and unheard of in a country that refers to itself as "democratic."

Any individual who questions the wisdom of the President thus can now look at spending the rest of his life in prison without any possibility of parole or amnesty, as specified by the People's Council. It seems that Turkmenistan's record on freedom of expression has become the worst among all our participating States. By far the worst.

Projects

As I have mentioned in my last regular report, two large-scale projects are currently being developed by my Office:

Freedom of the Media and the Internet is a project that intends to provide a broader context for a public debate on the challenges to freedom of expression and freedom of the media posed by the new information and communication technologies. A conference will be organized by my Office and will take place in Amsterdam, The Netherlands, this summer.

The project **Freedom and Responsibility: Media in Multi-lingual Societies** looks at the constructive role media could and should play in combating discrimination, promoting tolerance and building stable peace in multi-lingual societies, this project will aim to overcome prejudices and intolerance against citizens as members of minorities in the media. The project will investigate the practical working environments of the media in some OSCE Participating states: Switzerland, Luxembourg, Serbia and Montenegro (Southern Serbia), former Yugoslav Republic of Macedonia and Moldova. At the end of the project country reports will be produced. A concluding conference which will take place in Switzerland in March 2003 will summarise the results and identify the need and desire for more projects.

Another project: on **The Impact of Media Concentration on Professional Journalism** will collect and evaluate data in selected Western and Eastern European countries to establish the influence of the growing concentration of ownership on the intellectual and economic independence and freedom of professional journalism. Particular attention will be paid to two issues: cross-ownership of TV/radio and print media; and the influence of the Internet on the profitability of the print media (i.e. loss of revenue due to an increasing relevance of the Internet for classified advertisements, etc). The project will investigate political, financial and legal pressure on free and responsible journalism, which may undermine pluralism and hence journalistic freedom.

On 10-11 March my Office, together with the *European Institute for the Media* and the *Radio and Television Company of Slovenia*, held a conference on **The Public Service Broadcasting: New Challenges, New Solutions** in Ljubljana, Slovenia. The meeting addressed key challenges facing broadcasters in the EU member-states and in the candidate countries for accession. Case studies based on national experience provided insights into current dilemmas facing the broadcasting sector: the digital proliferation and liberalisation of the media markets vis-à-vis a sustainable, independent and responsible public service broadcaster.

A publication: **Building Media Freedom: The Spiegel Affair - an Example from Germany** in Russian aims to demonstrate to the Russian-speaking OSCE participating States what motivates German politicians to be very strong and outspoken in their support for freedom of expression. Its message is in the spirit of the recently deceased Rudolf Augstein, founder of *Der Spiegel*, and is related to his personal interest in the political developments in the former Soviet Union. The publication will document the 1962 *Spiegel* affair. It will assemble reports from *Der Spiegel* of that time and comments made by witnesses forty years later on the occasion of the affair's 40th anniversary, for example, an interview with Rudolf Augstein will be included in the publication.

The Office has been following for a long time the issue of **libel** and specifically its misuse in many of our participating States. A round table will be organised later this year involving legal experts, politicians, journalists (and, among them, victims of libel harassment), NGOs to discuss this matter and the ways to guarantee the freedom of professional and responsible journalism.

Preparations are currently underway for the **5th Central Asia Media Conference**, which will take place in September 2003 in Bishkek, Kyrgyzstan.

Since my last PC report in December, a Conference was organised in Dushanbe at the end of the year, to discuss the conditions for the media within the current legal framework that regulates it. Prior to that a 15-person working group was established by OSCE and *Internews* to prepare a draft of a new media law for **Tajikistan**. The working group, consisting of Parliamentary and Governmental experts, media lawyers, journalists and NGOs, convened during a six-month process discussing all aspects of the legal media landscape, ending its work in spring 2002. Furthermore, a thorough review of all the media laws in force in Tajikistan was commissioned to compare their compliance with international standards. The review presents recommendations for improvement in many areas.

The participants at the Conference agreed that the working conditions for Tajik media radically differ today from those in existence when the current media legislation was adopted and that some changes were inevitable. The participants agreed on a set of recommendations directed at the Government and Parliament in Tajikistan to start the process of improving the standards by adopting a new media law. The OSCE is ready to further assist the Tajik authorities in this process.

In **Kazakhstan**, an **Internet café** for journalists was opened in February as a joint project between the OSCE Centre and my Office. This initiative will directly improve access to information for the local journalists. Similar projects are being developed in Kyrgyzstan, Tajikistan and Uzbekistan. We are hoping for extra-budgetary contributions for these important undertakings from the participating States in the nearest future so that we can proceed as planned.

In Almaty, a **legal clinic** giving independent advice and expertise on media issues to the courts and defence lawyers has opened in February. A project proposal for a legal clinic giving free advice to journalists in Uzbekistan is also ready for consideration by donors.

The Office will initiate short exposure courses in OSCE participating States for young **Azerbaijani** journalists. A follow-up seminar will be organized in Baku in autumn 2003. The purpose of the project is to contribute to the improvement and understanding of the functioning of a free media in Azerbaijan.

The Office will organise a workshop in Berlin in October 2003 on the **Media Situation in the Mediterranean Partners for Co-operation of the OSCE (Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia)** and publish the results.