

**Working Session 3 – Freedom of the Media**

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Rights of reply -16

Rapporteur: Helen Teasdale, First Secretary/Political-Human Dimension, United Kingdom Delegation to the OSCE.

Mr Marcin de Kaminski, of the Swedish organisation, Civil Rights Defenders, stressed the positive role of journalists and the media, as the cornerstone of democratic processes. However, he noted the use of legislation that restricted freedom of expression in the OSCE region. He noted that legislation often used vague terms, such as “mass disorder”, but could lead to criminal charges against individuals. He mentioned the lack of rules in the online space, for example the use of content blocking, online surveillance, data retention, and weak rule of law online. Mr de Kaminski also noted the use of ‘encryption backdoors’ in online platforms that could violate users’ right to privacy. He noted instances in which journalists were arrested due to their use of secure communication channels. Mr de Kaminski then touched upon restrictions of media in the OSCE region, including a lack of independent media in some States. He noted that NGOs shared some challenges with media, such as being labelled ‘foreign agents’, or being affected by laws on public assemblies and gatherings. He also raised concerns that governments were not abiding by commitments to investigate attacks on journalists. Mr de Kaminski raised a number of individual cases, including: Afgan Mukhtarli and other journalists in prison in Azerbaijan; 70 journalists who received fines this year; Zhalaudi Geriev in the Russian Federation; and a case in Kyrgyzstan.

Ms Dilara Arstanbaeva, a Judge of the Supreme Court in Kyrgyzstan, noted that any restrictions imposed on freedom of expression for public order and the well being of the population must be proportionate and in line with the original goals. While Kyrgyzstan had been criticised in the past for measures that allowed for action against journalists, the legislation had been amended in 2011. Kyrgyzstan had also looked to international law to develop a framework for dealing with disputes of an individual’s honour and reputation, against freedom of expression and factual reporting.

Ms Arstanbaeva noted that more people now had access to the internet, including on ‘smart phones’. Young people using digital technology did not know that freedom of expression was not absolute, or more generally about legislation. They needed to have a better knowledge of the law and how it applied to everyone. Ms Arstanbaeva added that religious extremism, fundamentalism and terrorism were difficult to define and hence to prosecute. She also noted the need to deal with hate speech, including using the Rabat Plan of Action as a way forward.

In the following interventions, a large number of participating States stressed the importance of human rights, including freedom of expression for security. They raised concerns over the use of disinformation (or propaganda), steps to brand journalists as ‘foreign agents’, and the use of censorship and restrictions on journalists.

A number of participating State raised concerns over searches and arrests of journalists in other participating States. A state stressed the importance of the issue of safety of journalists, and condemned persecution of bloggers.

Some civil society representatives raised concerns over a number of States’ actions to block websites and messaging applications, as well as States ceding responsibility to technology companies in relation to decision over content. Concern over financial pressures on media outlets, including as a result of decreasing advertising revenue was mentioned, as was state ownership of large proportions of the media. Some civil society representatives raised concern over a complete lack of independent media in their home state.

A participant noted the need for journalistic standards, responsibility, and self-regulation, and to ensure journalists had access to all parts of a country, even those under occupation. Another participant expressed concern over double standards in relation to criticism of journalists based on their content. Another participant

noted the use of anti-blasphemy laws and counter terrorism laws to restrict free speech, stressing the importance of freedom of the media for social cohesion.

One participant noted that it was a journalist's role to query decisions taken on national security grounds, and that in a mature society, journalists should be trusted not to reveal classified information.

Participants raised the need for fact checking and increasing media literacy in populations. One participant raised concerns over action against individual journalists working for a media provider in a range of OSCE countries. A participant noted the difference between hate speech and freedom of expression, and how the former could not be excused. A participant raised concerns about restrictions on journalists' access to government events.

One civil society speaker stressed the positive aspects in their country, and the ease with which journalists could operate.

## Recommendations

### To participating States

- Cease blocking online applications and services
- Follow individual cases of journalists detained in other countries
- Release all falsely imprisoned journalists, revoke travel bans and cease harassment of family members.
- Investigate all harassment and attacks against journalists and bring perpetrators to justice.
- End criminal defamation
- Stop putting pressure on family members of journalists
- Refrain from criminalizing journalistic activities in conflict areas.
- Permit independent television channels
- Fully respect their international obligations and commitments on freedom of expression and media freedom, in particular to refrain from unduly and disproportionately restricting freedom of expression, online and offline, under the guise of fighting extremism or terrorism.
- Devote special attention to the phenomenon of disinformation campaigns.
- Respect the freedom of expression and refrain from propaganda for wars of aggression.
- Engage constructively with the Representative on Freedom of the Media and make use of his expertise and recommendations.
- Respect the mandate and autonomy of the Representative and provide him with the necessary resources to fulfil the mandate

### To OSCE institutions

- Field missions should provide training to journalists
- Recognise attempts to restrict access by journalists to conflict areas as an 'early warning' sign
- Develop guidelines on Access to Information for journalists

### To all

- Improved cooperation between media and civil society on regulation of hate speech and hate crime.
- To protest restrictions on journalists travelling outside their home country
- To challenge new laws on extremism