



**Organization for Security and Co-operation in Europe
The Representative on Freedom of the Media
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Special Report:
Registration of Print Media in the OSCE area
Observations and Recommendations

This paper is the second in a series issued by the Office of the OSCE Representative on Freedom of the Media that seeks to offer clarification about both problematic **aspects and best practices of the administrative framework** for the media in the OSCE area.

The first paper, published in October 2005, examined the function of **accreditation** and concluded that while the participating States have made commitments to facilitate the work of the media, there remains much work to be done to create an enabling working environment for journalists¹.

This Special Report examines the issue of **registration of the print media**. A number of recent cases illustrate how rigid registration schemes result in an unnecessarily restrictive administrative framework, particularly for the independent press.

The report also contains a set of **recommendations** to assist the participating States to improve this aspect of the administrative framework for the print media.

Registration, Notification and Licensing

Many terms are used to describe registration in legislation. For example, “**Registration**”, “**Notification**” and “**Licensing**” are often used interchangeably, even though each term describes a different procedure, depending on the type of media and the aim of the process. For this reason, it is worth defining the terms and describing how each is used.

Notification

The term ‘**notification**’ describes the procedure whereby a **print media** outlet informs the authorities of its existence and is entered into a **national register**. In this way, the print media registers itself for tax and other social obligations, as would any business. Information included on the notification form includes, for example, the names of the

¹ http://www.osce.org/documents/rfm/2006/10/21826_en.pdf

business owner(s), the business's legal address and other administrative details. The procedure is carried out by an independent body, often one which deals with new businesses. The fee is minimal and is intended to cover administration costs only.

The Russian language term for this procedure is 'уведомительная регистрация' (uvedomitelnaya registratsia).

Registration

The term '**registration**' is used for something that is more than a notification procedure, and describes an **official authorization**, or '**permissive**' procedure. When the law requires that registration is obtained, typically a government agency is responsible for registering a print media outlet, without which, the outlet is not permitted to open for business. The registration procedure requires the applicant to submit **substantive information**, and answer an **unspecified number of questions** from the authority holding the register, before registration is approved. Often, a **disproportionately high, or unspecified fee** is payable in order to obtain a registration.

The Russian language term for this procedure is 'разрешительная регистрация' (razreshitelnaya registratsia).

Licensing

Licensing is the term used in relation to the **broadcast media**, and is applicable to the allocation of **scarce or finite resources**, such as FM frequencies. In principle, the scarcer the transmitting medium, the greater the justification for issuing a government license for the media outlet using it. **Broadcast licences** should be issued by an independent and impartial body and allocated according to standards that support the aims of pluralism, in spite of the scarcity of the medium.

As the **internet** does not have bandwidth restrictions and itself is a guarantee of pluralism, there is no need or requirement to register or license it.

Licensing of the **broadcast media** is set to change dramatically after the introduction of digital-terrestrial transmission in Europe: the implications for the future of licensing for electronic, digital and broadcast media will be discussed in a subsequent Special Report.

The Russian language term for this is 'лицензирование' (litsenzirovaniye).

Registration or Notification?

The rationale and justification for **notification** and **registration** procedures are essentially the same: both procedures lead to a valid **register** of existing print press outlets. Several agencies or bodies use the information gathered during the course of this process. For example, the Ministry of Finance uses the data in order to collect taxes and the Ministry of Economy uses this data to compile statistics or to ensure that media

ownership complies with national anti-monopoly regulation. In case of a dispute involving the outlet, the Court can look up details of the outlet on the register.

The difference between registration and notification

The essential difference between the two terms is that *notification* allows a newspaper owner to inform the government of its existence, while *registration* allows the government to inform a newspaper that it may exist. By adopting a registration system in preference to a notification system, the government grants itself discretionary powers over the existence of a single newspaper, or over the shape and scope of the whole media space.

For these reasons, only the **notification** type of procedure is compatible with OSCE Commitments on freedom of the media, particularly those enshrined in the Moscow Document, the essence of which is:

- To serve pluralism
- To reduce limitations and restrictions to the free functioning of the press
- To remove any possibilities for government interference into the workings of the press².

Positive examples of the adoption of a notification procedure are found for example: in **Montenegro**, the *Law on Mass Media* states “a medium shall be founded by a Deed of Foundation, freely and without obtaining any approval, and shall be entered in the media record” (art 8); in **Albania**, there isn’t any obligation to notify the authorities about print media, unless the outlet operates on a commercial basis, in which case the general law on commercial companies applies; in **France**, a written publication may issue content immediately the notification is sent to the State Prosecutor, without waiting for an approval: In **Azerbaijan**, a newspaper can be issued as soon as the notification documents have been sent to the Ministry of Justice, who contacts the owner subsequently only if there are discrepancies in the documentation.

Registration is a much more detailed procedure and obliges owners to provide extensive information about all aspects of the newspaper. The registration system also grants discretionary powers to the authorities to ask any number of questions and creates the possibility for arbitrary refusal of registration on the basis of partial political considerations.

For example, according to Resolution No 418 “*On Further Improvement of the procedure for state registration of media in the Republic of Uzbekistan*” all forms of media, including print, audio, audio-visual and electronic media are subject to a registration procedure, whereby the outlet is required to list numerous details about the outlet, including *inter alia* the proposed audience, its aims and tasks, its suppliers of equipment and its sources of financing. In addition, the outlet is required to submit substantial and

² Moscow Meeting of the Conference on the Human Dimension of the CSCE (October 1991) (26, 26.1, 28.9); see also the Cracow symposium, 1991 (6.2)

extensive documentation, confirmed by a notary, about the founding documents, the legal owner and other financial and tax obligations. The resolution also grants the authorising agency the right to refuse registration on a number of administrative grounds.

1. RFoM recommends that the arbitrary system of permissive registration be abolished for the print media. The possibility to refuse registration of print press outlets based on grounds of content, subject matter or intended audience should be removed. Restrictions on content, where applicable, should be provided for in general legal provisions and not used as a basis to deny the existence of a newspaper.

Institutional Framework

The function of the agency responsible for the register

The function and purpose of the agency responsible for compiling the register for print media is to assist the media outlet to get started on a legal basis, with a minimum of administrative and bureaucratic hurdles. Authority to complete the procedures should be handed to an independent agency that is free from government influence and should follow a standard procedure, in order to ensure impartiality in the decision-making process about media start-ups. Typically, the agency is a business registration service that receives data from new print media outlet founders and disseminates aggregate data to interested parties, such as Statistics Office. Preferably, such information should be posted on the internet.

For example, in **Sweden**, notification procedures for a new print media outlet is handled by the Swedish Patent and Registration Office; in **Croatia**, the procedure is dealt with by the Croatian Chamber of Economy, an independent professional and business unit dealing with all legal entities engaging in business.

Sometimes, notification is sent to an independent judicial body. For example, in **Bulgaria**, notification of a new media outlet is sent to the local court, which registers the incorporation of a new company. In **France**, no notification is required at all: instead, the director of the publication sends two signed copies of the publication to the public prosecutor's department and ten copies to the Ministry of Information (for those published in Paris) or to the Prefecture (for those published in the regions).

There are instances in OSCE participating States where those responsible for the register are **closely aligned with the government**. This proximity sometimes has negative implications for the media, particularly the independent media.

For example, in **Kazakhstan**, the agency authorised to register newspapers is not defined in the law but registration is carried out in practice by the Ministry of Information. RFoM has received complaints from independent newspapers which have waited months for registration, despite the 15-day limit prescribed in the law.

In **Turkmenistan** provision for registration of mass media is made in the *Law on Press and Other Mass Media*, however, the actual registering organ is defined only as ‘public administration bodies’. In practice, there is considerable confusion over which agency or department is responsible for registering the print press and consequently, new media outlets are rarely registered.

In some cases, the law allows newspaper loyal to the government to bypass registration completely, creating an unfair conditionality for other newspapers.

For example, in **Tajikistan**, special provision is made in the *Law on Printing and other Mass Media* to exempt government publications from the registration procedure prescribed by law. In the **Russian Federation**, mass media outlets that are founded by government organs are also exempt from registration according to the law. This places non-government newspapers at a disadvantage in the marketplace, particularly as the law allows the registering organ to refuse registration, by extension, only to non-government newspapers.

2. The body responsible for receiving notification of the existence of new print media should be an agency with operational independence from the government and should work out a set of standard criteria for all media outlets, not just those which support the government.

The Notification Procedure

A simple **notification** procedure provides the necessary information to enter the newspaper’s details into the register, thereby ensuring compliance with the normal legal requirements for a business start-up. Information provided by the owner on the notification form should serve this function only – no additional information should be required.

The notification form should be standard for all outlets and published on the internet. The questions should be designed so that there isn’t room for evaluation by those compiling the register; the content of the form should not lead to deliberation by a higher authority.

Annex 1 contains an example of a notification form for print media from **Sweden**. The form asks for basic information about the publication (title, periodicity, location), and the contact details of the chief editor and the newspaper’s owner. There isn’t any room for interpretation of this basic data on the form and therefore serves as a good example.

In case of changes to any of the details submitted on the original notification form, the only obligation on the owner is to resubmit the changes to the register. In case of missing data, the holder of the register should contact the outlet to provide only the missing information. For example, should the chief editor be replaced, the obligation on the owner is to resubmit only the contact details of the new chief editor; should the name of the publication change, the same principle applies. Administrative changes regarding, for

example, the composition of the editorial office, should not be the basis on which an owner is obliged to register a completely new business.

Re-registration

In some OSCE participating States, additional obligations are imposed on the print media that requires outlets to **re-register** in the event of even the most innocuous changes to their founding data.

For example, in **Belarus**, the *Law on Print and other Mass Media* (art. 11) requires outlets to re-register in the event of changes in the founder's details or in the name of the publication, or in the event of two government decisions in one year to halt the activities of the publication. Outlets are required not just to submit the details of the changes in order that the data may be updated but instead are required to repeat the whole registration process, which can take months, during which time they may not publish. An example of the arbitrary nature of the system was seen when, following a Presidential Decree in June 2005 which banned the use of the word "Belarusian" in non-official publications, many of the independent newspapers were forced to re-register. Notably, this requirement forced the re-registration *only* of non-government outlets.

Following the adoption of a set of amendments to the existing media law in June 2006 in **Kazakhstan**, and a statement by the Minister of Information, referring to an alleged excess in the number of media outlets in the country, media outlets became subject to the full re-registration procedure in case of changes to *any* of the following data: the owner; the legal status of the owner; the name of the outlet; the language of the publication; the scope of distribution; the main subject of the publication; its editor. This requirement to re-register the print media following any changes in the outlet's data is not only contradictory to spirit of the OSCE Commitments, but can serve as a pretext for preventing the publication of critical media.

If the register is believed to be out of date, the government should not require print media to re-register: rather, a simple notification procedure allows the register to be updated while the newspaper continues to publish as normal. By creating a simple procedure, rather than a bureaucratic hurdle, outlets will be more willing and able to comply.

Fees

The fee for informing the register of a new outlet, or for changes in the statute later on, should not serve as a barrier to a media start-up and should be proportionate to the task. Ultimately, the market will decide which independent outlets should survive: governments or their representative agencies should not take a hand either in limiting the start-up or maintaining a loss-making business³.

³ The exception to this principle is the official gazette, which is the government's tool to inform the public of government activities, providing, for example, the full text of draft legislation.

For example, in **Hungary**, the Ministry for National Cultural Heritage does not charge a fee at all for entering print media into the commercial register; in the **United Kingdom**, the Registrar of Companies charges 50p (0.8€/ \$1) for registration unless numerous proprietors are named on the founding documents, in which case a fee of £1 (1.4€/ \$2) is payable.

However, in some OSCE participating States, a disproportionately high fee serves as a barrier to entry.

For example, in **Tajikistan**, art 13 of the *Law on Printing and other Mass Media* states that registration fees are established by other Tajik laws, leaving significant scope of for interpretation; in **Uzbekistan**. Art 14 of the *Resolution On Further Improvement of the procedure for State Registration of Media in the Republic of Uzbekistan* gives a sliding scale for payment of up to multiples of 50 times the minimum wage, depending on the type of publication.

When limits are not prescribed clearly and fairly, the independent media, which are often the only type of media required to register, are unfairly discriminated against. To prevent this, a cap or ceiling should be prescribed clearly in the law and should be proportionate to the task. Without such limits, the registering body can set unreasonably high fees for a service, which in itself is discriminatory to an emerging independent media, which is not privileged with government subsidies.

3. In the event of changes to the charter of a media outlet, the only requirement should be to submit only those changes to the register. The requirement to re-register should be abolished completely. Fees for this service should be minimal and consistent with the task.

The role of the media in the civil society landscape

The issue of registration of the media has taken on a broader significance during the last year, following the adoption of restrictive registration and re-registration provisions for NGOs in some OSCE participating States, including **Russia, Belarus and Uzbekistan**. These laws allow governments to intervene against public organisations with a re-registration order, justified by the need to update a national register.

Additionally, the existence of arbitrary registration and re-registration requirements can threaten critical media at any point in time: this threat is particularly onerous in the lead up to a significant public event, such as a general election.

It is inappropriate for a democratic society with a free media to impose an ‘approval’ procedure, with its inherent arbitrariness, on the print media. The newspaper industry is a civil societal endeavour and governments should not have the power to deny the print press the right to publish. New print media should be subject only to a notification procedure which is processed by an independent body.

Registration procedures, where they still exist, should be de-politicised and transformed into a simple notification system.

Recommendations

1. RFoM recommends that the arbitrary system of permissive registration be abolished for the print media. The possibility to refuse registration of print press outlets based on grounds of content, subject matter or intended audience should be removed.

Restrictions on content, where applicable, should be provided for in general legal provisions and not used as a basis to deny the existence of a newspaper.

2. The body responsible for receiving notification of the existence of new print media should be an agency with operational independence from the government and should work out a set of standard criteria for all media outlets, not just those which support the government.

3. In the event of changes to the charter of a media outlet, the only requirement should be to submit only those changes to the register. The requirement to re-register should be abolished completely. Fees for this service should be minimal and consistent with the task.

The Office of the OSCE Representative on Freedom of the Media reiterates its willingness to assist the participating States to amend their registration procedures in favour of a simple notification system for the print press.

**Ansökan om utgivningsbevis för periodisk skrift med
anmälan om ansvarig utgivare**

NOTIFICATION FORM

1. Ansökan tidigare inskickad via fax	Ankomststämpel
Datum	Detta fält ska inte användas av sökanden
Obs! Ödgått ska alltid skrivas in	

Se bilaga för anvisningar till denna blankett

Uppgifter om skriften: INFORMATION ABOUT THE PUBLICATION / ДАННЫЕ ОБ ИЗДАНИИ

Skriftens titel (alternativ 1) TITLE OF THE PUBLICATION / ЗАГЛАВИЕ ИЗДАНИЯ	
Skriftens titel (alternativ 2) ALTERNATIVE TITLE / АЛЬТЕРНАТИВНОЕ ЗАГЛАВИЕ	
Utgivningsort LOCATION / МЕСТО НАХОЖДЕНИЯ	Utgivningsplan PERIODICITY / ПЕРИОДИЧНОСТЬ

Uppgifter om ansvarig utgivare: INFORMATION ABOUT THE CHIEF EDITOR / ДАННЫЕ О ГЛАВНОМ РЕДАКТОРЕ

Ansvarig utgivares namn NAME OF CHIEF EDITOR / И.О.Ф ГЛАВНОГО РЕДАКТОРА		
Adress		
Postnummer	Ort	Telefon (oblig)

Personbevis samt bevis om att ansvarig utgivare inte står under förvaltning (författarfranchisebevis) ska alltid bifogas

Med denna anmälan åtar jag mig uppdraget som ansvarig utgivare: ACCEPTANCE OF RESPONSIBILITY / ПРИНЯТИЕ ОТВЕТСТВЕННОСТИ

Ort och datum _____ Underskrift av ansvarig utgivare med namnförtydligande _____

Uppgifter om ägaren: INFORMATION ABOUT THE OWNER / ДАННЫЕ О УЧРЕДИТЕЛЕ

Ägarens namn NAME OF THE OWNER / И.О.Ф УЧРЕДИТЕЛЯ		
Adress		
Postnummer	Ort	Telefon (oblig)

Juridisk persons firma räknas av behöriga företagare. Företagare ska framgå av registreringsbevis eller stadga enligt protokolll som alltid ska bifogas.

Underskrift av ägaren: SIGNATURE / ПОДПИСЬ

Ort och datum _____ Ort och datum _____

Underskrift av ägaren med namnförtydligande _____ Underskrift av ägaren med namnförtydligande _____

Anskaffningsavgift 2 000 kronor. Ansökan tas inte upp till prövning förrän avgiften är inbetald.