



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

-CHECK AGAINST DELIVERY-

31 July 2003

Regular Report to the Permanent Council

Mr. Chairman, Ladies and Gentlemen,

As before, my report is divided into two parts: in the oral presentation I will focus on some issues of concern to my Office. The written part provides you with information on some of the countries with which we have been involved over the past four months, and on our projects.

This month in Berlin, together with two media companies, I proposed a set of **principles to guarantee the editorial independence of media** in Central and Eastern Europe and in the former Soviet Union. These principles concern media that have been or are in the process of being acquired by western conglomerates. They set out the criteria that the media owners take upon themselves to adhere to once they are in a position to financially control a media outlet/s in one of the developing democracies.

In my view, it is important that the new owners understand their responsibility towards the citizens of the country where they now own not only a business but also a public service indispensable to building a pluralistic and open democracy. The German media company *Die WAZ-Gruppe* and the Norwegian *Orkla Media AS* have already agreed to support these principles.

At the same time, my Office is conducting research on the **impact of media concentration on professional journalism**. Over the past decade European media have experienced some fundamental changes. The opening of new markets in the post-communist countries has accelerated the sometimes disturbing trend of media concentration all over Europe. This has been particularly evident in the print media sector.

While the economic and political implications of concentration in the print media have been researched extensively, little attention has been paid to the impact of such trends on professional journalism itself. Our project is focusing on exactly that, zeroing in on the situation in four EU countries: Germany, Finland, United Kingdom, and Italy, three acceding countries: Hungary, Lithuania, Poland, and one applicant country: Romania.

The study will consist of two parts: first, providing data on media concentration and foreign ownership in these eight participating States. Second, a survey has been sent out to journalists working for daily newspapers asking them to review the consequences of media concentration and economic pressure on professional journalism. Results of this study will be published at the end of this year.

In 2002 and 2003, my Office developed two major projects. The first one looked at the **Internet**: this medium offers an unprecedented means for the exchange of ideas, the free flow of information

and the distribution of all kinds of journalistic media. But to rely on the decentralised structure of the Internet as a safeguard for freedom of expression and free media is dangerous. While information is distributed on the Internet regardless of national borders, at the same time new means of censorship, filtering, blocking and restrictive legislation are being developed and implemented.

That is why I organised a conference on *Freedom of the Media and the Internet* on 13-14 June in Amsterdam. More than two dozen international experts were brought together to discuss Internet-related perils to freedom of expression. Among them were members of the European Parliament, the Council of Europe, the European Commission, the OSCE, academia, media and a number of non-governmental organisations from Europe and the U.S.

The results of this conference are condensed in the Amsterdam Recommendations. The main point is that while existing laws could be used to ban illegal content on the World Wide Web, no measures must target the infrastructure of the Internet as such.

The advantages of a vast network of online resources and the free flow of information outweigh the dangers of misusing the Internet by far. No matter what technical means are used to channel the work of journalists to the public – be it TV, radio, newspapers or the Internet – the basic constitutional value of freedom of the media must not be questioned. This principle, which is older than most of today's media, is one that all modern European societies are committed to. A publication with contributions to the Conference will be published in autumn this year.

The second project dealt with **Media in Multi-lingual Societies**: a publication based on our work in this area is being distributed. This brochure is the result of a study we launched in September 2002. Let me bring to your attention two figures: there are approximately 5,000 national groups living in our contemporary world and about 3,000 linguistic ones. In fact, all countries, without exception, are multilingual.

The project has addressed the role of the media in different languages within several multilingual democracies. Independent experts wrote country reports on the current working environment for the media in five countries: former Yugoslav Republic of Macedonia, Luxembourg, Moldova, Serbia and Montenegro and Switzerland. The five country reports were presented at a conference my Office organised in co-operation with the Institute of Mass Communication Studies on 28-29 March in Bern, Switzerland.

Switzerland and Luxembourg undeniably represent historical successes in the management of linguistic diversity. Switzerland and Luxembourg do not see language variety as a threat to the security or unity of the country. The value of the Swiss and Luxembourg unique experiences transcends their national boundaries.

The former Yugoslav Republic of Macedonia, Moldova, and Serbia and Montenegro are countries in the early stages of modern democratic development. Media in all languages represent a powerful social resource that can – and must – be mobilised to assist in this process. Our publication lists best practices in the countries concerned and offers recommendations. The publication will also be presented in Belgrade in the fall.

In November I plan to hold a round-table on **criminal libel and insult laws**, issues that have made life for journalists very difficult in some of our participating States. I have said on many occasions, and here my Institution has gone further than, for example, the Council of Europe: libel should be decriminalised in all our participating States, even in those where criminal provisions have not been used for decades. All insult laws that provide undue protection for public officials should be repealed. Again, this concerns states to the East and West of Vienna.

I plan in November, together with experts, to develop a set of recommendations to our participating States which I will then present to you in my last report to the Permanent Council as the OSCE Representative on Freedom of the Media. I would hope that my successor would then take upon himself the task of following up on these recommendations. I would also like to urge your governments to help us finance this round-table and look forward to your support.

I would like to mention my concern about **Belarus**, where we see ongoing threats to freedom of expression. This OSCE participating State has signed all the main OSCE provisions on freedom of expression, the free flow of information and freedom of media. However, through a stunning number of recent actions, the Belarusian authorities have ignored their commitments and proceeded on a path to virtually stamp out any meaningful, independent media in that country.

This is a self-defeating approach for this former Soviet state that successfully began developing free and independent media in the early 1990s. A decade later Belarus is isolating itself from Europe, ignoring internationally respected standards in many fields, including freedom of expression. This road leads nowhere.

I have expressed my concerns in the past about the dangers to media freedom in **Italy** resulting from the concentration of the control over both private and public broadcasting media in the hands of the Prime Minister. These concerns have been deepened by two bills approved on 22 July by the Italian Parliament: the Gasparri Bill on broadcasting reform which will allow companies to have interests in more than one news media category, and a bill to regulate conflicts of interest between ownership of a profit-making enterprise and holding public office. Both bills are considered by experts as not setting serious limits to a monopoly. I re-iterate my concern about what this means for pluralism of opinion and freedom of the media in a founding Member State of the European Union. After all, the EU is supposed to set an example for the young democracies east of Vienna.

I have been approached by journalists from the United Kingdom with the question whether I will intervene in the case of the **BBC**, who revealed David Kelly as their main source for a controversial report about weapons in Iraq. I cannot comment on this case until all the results of the ongoing investigation of the case are published.

Thank you.

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Albania: At the request of our Mission, my Office reviewed the Law on Public and Private Radio and Television and proposed amendments. Our expert's opinion was forwarded to the authorities and we understand that the comments have proved to be useful. This is part of our legal support work that has been a major success.

In **Armenia**, I have been closely following the debate regarding libel and the open letter addressed to Armenian Parliamentary Speaker, Arthur Baghdasaryan, on 17 June and signed by several heads of diplomatic missions in Yerevan, including the Head of the OSCE Office in Yerevan, Ambassador Roy Reeve. The letter voiced concern on libel and slander in the new Criminal Code. On 2 July, I wrote to the Foreign Minister explaining my position, which you know well by now, and I look forward to the government's comments on this matter.

On 18 July, I issued a press release expressing regret that two independent television companies in Armenia, *AI+* and *Noyan Tapan*, had not been awarded broadcasting licenses as a result of the tender announced by the National Commission on Television and Radio on 18 July in Yerevan. In

my view, their absence from the airwaves underlined that freedom of expression in Armenia continued to be restricted.

Azerbaijan: the 4 May attack on four journalists and on the offices and equipment of the opposition daily, *Yeni Musavat*, in Baku, prompted me to ask for an explanation from the Azerbaijani Minister of Foreign Affairs. We have received an official reply from the Ministry, which gives details showing that the conflict was based on “personal grievance and insult,” and that the four attackers were punished.

The government has assured me that the safety of journalists is at the centre of its attention. This problem has a chance of being at least partially solved now that the country has a functioning Press Council whose purpose is to ease tension between government and the media. This body includes representatives from the government and from opposition publications, as well as public interest advocates. The effective functioning of the Press Council will be especially important in the pre-election period this year.

My Office is working closely with the OSCE Office in Baku on a freedom of media project for Azerbaijani journalists. Thanks to a grant from the U.S. OSCE delegation, a group of journalists will travel to Washington in early autumn for an exposure visit on media freedom themes. It is my hope that other participating States will find the resources to invite similar groups of Azerbaijani journalists to their countries to give them the knowledge to help Azerbaijan develop free media.

Belarus: I wrote to the Foreign Minister in May concerning the suspension of one of the nation’s leading independent newspapers, *Belarusskaya Delovaya Gazeta*, as well as *BDG-For Internal Use Only* and the official warnings against several other independent newspapers. I told the Minister that these actions give the appearance that the government is using the current media law to restrict freedom of the press in the Republic of Belarus, and that I am deeply concerned about these negative developments. An answer from the Ministry claimed that these actions were done “...by order of the Minister of Information on the basis of a presentation by the Office of the public prosecutor of the Republic of Belarus and in full compliance with the law on printed and other mass media.”

I am also concerned with the recent closure of *IREX* and *Internews* offices in Minsk. These two organisations have greatly assisted in the development of independent media in Belarus. The closure of the bureau of Russia’s *NTV* television network in Belarus for allegedly slandering the government in its 25 June report on the funeral of the Belarusian writer, Vasil Bykov, can also be seen as another act of repression against alternative media voices in the country.

The authorities, as far as I know, have prepared a draft media law. The OSCE Office in Minsk, the *Belarusian Association of Journalists* and others have tried diligently to obtain a copy of this draft that should be submitted for a public debate before being finalised. I am ready to commit my Office’s resources to conduct a thorough evaluation of this media law. Small catch: if the Belarusian authorities will let me have a copy.

The situation in **Central Asia** is of continued concern to my Office. We will have a chance to get into the issues in more detail at the Fifth Central Asian Media Conference to be held in Bishkek on 17-18 September 2003. I will report further on this region after we have an opportunity to review the situation closer.

We have recently seen renewed efforts to control the Internet by blocking sites in Central Asia. For example, since my last report, I have approached the Governments in Kazakhstan and Tajikistan

concerning blocked opposition web sites – so far no response has been given and the web sites remain without access. We have similar problems in Uzbekistan.

In addition, two independent newspapers have been closed down in Central Asia since my last report. Both are newspapers that I have mentioned several times in my previous reports. *Moya Stolitsa* in Kyrgyzstan had to fold in May after not being able to pay exorbitant fines and "moral damages" in dozens of libel suits. In July, *SolDAT* in Kazakhstan was closed after a ruling by an economic court regarding a lack of clarity in the founding documents of the newspaper.

I would also like to remind this Council that Sergei Duvanov, a journalist from Kazakhstan, is still serving his sentence in a local penitentiary notwithstanding the interventions on his behalf by my Office, ODIHR, several participating States and NGOs. The views of the Dutch experts that have been distributed to you are very clear and unambiguous pointing out a number of irregularities in the legal proceedings in his case.

In **Croatia**, I have been dealing with several issues: my Office has supported the work of the OSCE Mission in the field of media legislation. On the Electronic Media Law, that my Office analyzed, our comments were to a large extent incorporated. I believe that now this draft law is in compliance with relevant international standards. However, I have been concerned with the toughening of some of the legal provisions dealing with libel, an issue I have raised in June with the Foreign Minister. I understand that my comments, among many others, have started a wide debate on criminal libel in the country, which I welcome. This week I received an answer from Foreign Minister Tonino Picula where he defends the newly adopted amendments. I will continue stressing my position on libel and would be especially pleased if this debate in Croatia led to its decriminalization. Also in this case my Office is preparing concrete legal advice at the request of the authorities.

In **Georgia** my concern is again criminal libel, an issue I raised with the country's Foreign Minister on 2 July with reference to amendments to the Criminal Code that have been approved in the first reading by Parliament on 6 June. My concern is with several paragraphs of the draft that deal with defamation and insult (articles 148 and 148¹). Commission of such acts could carry a prison sentence, under certain circumstances for to up to five years.

In the **Russian Federation**, it is through television that the majority of citizens receive their news. However, over the past few years I have had to intervene with the Russian government and to speak out publicly when the privately-owned television networks *NTV* and *TV-6*, staffed by a team of journalists who offered Russian viewers an alternative viewpoint, were forced to close down.

Therefore, I was greatly concerned to learn of the dissolution by the Russian Government on 21 June of *NTV's* and *TV-6's* successor, *TVS*, Russia's last remaining private television company with a national reach. Similar methods of financial and legal pressure seem to have been employed once again to silence this independent group of television journalists.

I have written to Press Minister Lesin asking for clarifications, since it was the Minister who finally pulled the plug on *TVS*. I would like to hear Minister Lesin's explanation, since I understand that according to Russian law, broadcast media can be taken off the air only through a court order.

Once again, I wish to underscore the critical importance to the future of an open and public debate in Russia of an independent television network, one free of any control by the state or state-owned companies.

I have also recently intervened with the Russian government about the case of two journalists from the Ural city of Perm. Konstantin Sterledev and Konstantin Bakharev of the Perm regional daily

Zvezda were put on trial after publishing two articles last autumn about alleged methods used by the regional office of the FSB. In my letter to Foreign Minister Ivanov, I expressed my hope that the Russian authorities would adhere to international standards concerning this case. I was glad to learn that the Perm city court found the two journalists not guilty.

I have heard about the 18 July murder in Moscow of Alikhan Guliyev, a former Ingush journalist. Since there are conflicting reports about this case, I am hoping to receive additional, more concrete information about it. I also urge the safe release of *AFP* journalist Ali Astamirov, kidnapped 4 July in Ingushetia.

I continue to be gravely concerned about the media blockade around the Republic of Chechnya. This obstruction of the flow of information inhibits Russian, Chechen and international media consumers from knowing the true depth of the brutality taking place there. The isolation of the Republic prevents any rehabilitation of journalism and updating of media technology which is badly needed. My Office is participating in a Chairmanship-in-Office initiative, a Task Force developing a program of technical co-operation in Chechnya, including in the media field. We have developed two project proposals, but unfortunately, my Senior Adviser was denied entry into the Russian Federation as part of a Task Force project team on 15 June, and to date we have received no explanation.

I would like to draw your attention to the controversy in Serbia (Serbia and Montenegro) regarding the appointment of members of the Broadcasting Council. I dealt with this subject in a written statement issued on 17 July to this Council. To reiterate my position: there is concern among politicians, the media and non-governmental organisations about the legitimacy of the appointment of several Council members. Certain procedural irregularities have been raised publicly. These irregularities affect the standing of the Council in the eyes of the country's citizens. The Serbian Parliament on 15 July 2003 reconfirmed those members of the Council whose legitimate appointment to the Council had been questioned by many experts including my Office.

This decision has been criticised both inside and outside the country. In this context, I believe that the best solution would have been to restart the procedure from the beginning in both the cases of the three disputed members and the two members that resigned. This would have, in my view, closed the issue and provided the Council with the legitimacy it needs to function properly. I still hope that this is the path that the authorities would follow in the future and I offer my good offices for any arbitration and/or expertise that might be needed.