



**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,

This is my fourth regular report this year to the Permanent Council. As previously, I have divided it into two parts: an oral one regarding some of our more pressing concerns and a written one that focuses on the cases my Office has dealt with as well as on our project work.

Since I last spoke here two months ago, a dramatic and tragic event happened in Moscow: the hostage taking in the theatre and the subsequent rescue operation. Some of the Russian media referred to it as "Our 11<sup>th</sup> September." All of us grieve for the victims and their families.

What concerned my Office was the fall-out from these events against the media. Initially, several restrictive amendments to the Media Law and to the Law on Combating Terrorism passed through both houses of the Russian Parliament. My Office immediately commissioned a legal review that was conducted by experts from *Article 19*. A review was also done in Moscow by Mikhail Fedotov, a leading Russian media expert.

Both reviews reached similar conclusions that basically the amendments were highly restrictive. That is why I welcomed the decision by Russian President Vladimir Putin not to sign these amendments into law and to send them back to Parliament. I also welcome the President's proposal that the journalists themselves should play an active role in drafting amendments to the Media Law.

With great interest I followed the open and public debate on the handling of the hostage crisis which once again showed that Russia is developing into a pluralistic society open to different often-opposing views. However, several cases of media harassment have also made it clear that there is still a lot of work ahead in strengthening democratic awareness and democratic institutions in Russia including the free press.

In a 20 November letter to Russian Foreign Minister Igor Ivanov I drew the attention of the authorities to several worrying developments: on 3 November, in a press release, I underscored my concern about the appearance of increased pressure on Russian media, using the search by Russian security officers of the Moscow weekly newspaper *Versiya* as an example. Subsequently, newspaper editorial offices in Perm, Petrozavodsk and Voronezh, papers known for criticising local authorities, have undergone extensive searches by local security officials.

In the last two weeks, there have been some additional incidents in the regions of Russia where the work of journalists appears to have been impeded: a police search of a newspaper in Krasnoyarsk, a newspaper director beaten in Primorye Kray, a search by economic crime

officers of editorial offices of a television channel and of a newspaper in Balakhov, an arrest of the editor-in-chief of a popular independent daily in Kovrov and an arrest by the city department of internal affairs of a TV film crew in Irkutsk. My Office has additional details about these cases and will continue to monitor them closely.

I am also concerned about the threat contained in a letter from one of the Russian diplomatic representatives in Berlin to the head of the German *ARD* television channel complaining about its coverage of the hostage crisis.

In my first report to the OSCE Permanent Council after the events of 11 September, I stressed that terror must not kill freedom in general and freedom of expression in particular. There were some worrying developments at that time in the United States in which national security matters took priority and unfortunately even squeezed out certain civil liberties. I did not hesitate to speak out at that time and I do not hesitate to speak out now regarding Russia, another participating State.

The urge to clamp down on basic freedoms under the pretext of "ensuring national security interests" is a phenomenon that is universal and can plague governments in the East and in the West. That is why the need to be vigilant never passes.

I may be repetitive, but I think it is worth repeating: human rights should not be side-lined because of the global threat from criminal terrorists, who of course exist. We should be very clear: those who preach religious extremism, if they are allowed to prevail, will ensure that not even a semblance of freedom of expression exists in the countries they may control. Afghanistan, among several others, is a classic and very tragic example.

We must also remember, that these extremists in their use of terror tactics are trying to force us, this declared family of democracies that is called the OSCE, to stoop to their level, to act in the same way as they would. We should raise to this challenge and show these groups and individuals who preach terror that we will not side-track our human rights' values, even under the difficult circumstances of the global fight against terrorism.

I hope these are the lessons, among others, that we learned from 11 September and the hostage-taking in Moscow. Freedom is too precious a commodity to be mortgaged even for the illusionary safety net called "national security."

I would like to raise here one final point dealing with an OSCE participating State: **Turkmenistan**. I understand that a Russian journalist Leonid Komarovsky was arrested on 26 November allegedly in connection with the recent attack against the country's President. However, I have very little information on this case and would like to ask the delegation of Turkmenistan to clarify the details of his detention. Any arrested journalist is of major concern to my Office. I also understand that many other people have been arrested. I would like to underline that Turkmenistan is still a member of this Organisation that prides itself on being a family of declared democracies. In this "declared democracy" the media are currently being used to humiliate and terrorise anybody who is even remotely contemplating the legitimacy of the current state of affairs. Some of the television programmes I have been informed about remind me of the show trials on Soviet radio and in the newspapers during the thirties. The brutality is of the same level but the media provide, especially television, for a much more chilling effect. As one of the heads of a human rights institution of the OSCE, I believe it is high time to conduct a special session of the Permanent Council on Turkmenistan where all the three heads of institutions and the head of our Centre can inform the delegations on the situation in the country and its human rights record. I would also

encourage inviting speakers from Turkmenistan who represent not only the government side. This is my proposal to the current and following chairmanships.

Thank you.

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### On cases:

In October, my attention was drawn to a piece of draft legislation proposed in the City-State of Hamburg in **Germany**. It would have allowed the authorities to survey the activities of journalists by optical and acoustic devices who may have come into contact – even without being aware of it – with a suspicious person or a possible criminal offender, regardless of whether or not any charges have been brought against the journalists.

In a letter to the German Minister of Foreign Affairs, I pointed out that a law in a German State that would undermine the principle of guaranteeing journalistic sources the protection of the law would be in gross violation of OSCE commitments subscribed to by Germany.

Meanwhile I received an answer from the German federal government assuring me that a vivid pluralistic debate has been triggered off by that draft legislation, as is good practice in a parliamentary democracy. The government of the City-State of Hamburg in turn has thanked me for my contribution to the political debate in that State. It assured me that the law revision just passed by the Hamburg Parliament takes into account the concerns that I had expressed, and that my reservations have been taken care of.

In **Armenia**, I am still concerned regarding the state of affairs around the two independent TV stations: *Noyan Tapan* and *AI+*. Following a court decision in favour of *Noyan Tapan* on 2 December, I hope that the tender for five frequencies can proceed quickly so that during the upcoming presidential elections and the preceding campaigns these two respected channels will be operational.

On a different matter, Armenian free-lance journalist Mark Grigorian suffered serious shrapnel wounds to the head and chest from a grenade thrown at him as he walked through the centre of the country's capital, Yerevan. The attack happened on 22 October and our colleagues from the OSCE Centre report that his health condition is still not good, he has a number of fragments from the grenade in his body. I expect the authorities to conduct a thorough investigation into this attack against a professional journalist.

The 25 November detention of Irada Huseynova, a correspondent for the **Azerbaijan** weekly *Bakinsky bulvar*, in Moscow by Russian militiamen at the offices of the Russian Union of Journalists' Center for Journalism in Extreme Situations, where she was working, prompted me to intervene with the Minister of Foreign Affairs of Azerbaijan. Ms. Huseynova had been charged with "insulting the honor and dignity" of Baku Mayor Hajibala Abutalibov and faced possible extradition to Azerbaijan and a possible sentence for criminal defamation charges.

The next day Ms. Huseynova was released from the Butyrka detention facility apparently in accordance with Russian legislation which does not allow for imprisonment for "libel and insult." She is now back at work at the Center for Journalism in Extreme Situations.

I would like to reiterate my position: no journalist should be sentenced to prison for what he or she writes, and in a democracy, writing about the activities of public servants is part of a

journalist's professional duties. It is my firm belief that no special protection should be afforded to public officials who should exercise a greater level of tolerance toward criticism than ordinary citizens.

The *Azerbaijani Editors Union* sent me an appeal on 4 December signed by 13 editors representing independent and opposition media. The editors request my intervention due to what they have determined is "...a defamatory campaign against non-government media" launched by the official press, and use of government-controlled courts to harass non-state media through defamation suits. The *Azerbaijani Editors Union* has informed me that in 2002 so far thirty-one suits have been filed against various media and journalists in the country. In October-November 2002, a total of 14 libel suits have been filed, including eight against one opposition newspaper alone, *Yeni Musavat*, and these could be used to close down the paper, to confiscate its property and to bring criminal charges against its ten employees. I am requesting urgent clarification on these matters from the Azerbaijani authorities.

The unhealthy state of media freedom in the **Republic of Belarus** continues, unfortunately, to produce new victims. A very young, Minsk-based independent newspaper *Myestnoye vremya* (*The Local Times*), founded in October and able to publish only three issues, was closed by the Belarusian Information Ministry on 27 November for reasons concerning its rental space, reasons which the *Belarusian Association of Journalists* has said are legally groundless. I am concerned that this is yet another act of "structural censorship" in Belarus and part of an on-going government campaign to silence critical voices, especially in the run-up to the March 2003 local elections.

Furthermore, the situation in Belarus concerning the virtual closing of the OSCE Advisory and Monitoring Group has brought me reluctantly to the conclusion that this is not the proper time to sponsor an international conference organized around the famous Voltaire quotation: "I may disagree with what you have to say, but I shall defend to the death your right to say it," which I had planned for March 2003 in Minsk.

In **Kazakhstan**, my Office together with ODIHR has repeatedly called for an impartial investigation and access to the trial of Sergei Duvanov, an independent journalist who was arrested on 27 October for alleged rape of a minor. Just weeks before his arrest, Duvanov was an outspoken participant at the 4<sup>th</sup> Central Asia Media Conference in Tashkent. The number of incidents involving Duvanov trigger concerns of a pattern of harassment against him.

I have also asked for clarification about the investigation concerning the death of Nuri Muftakh, an opposition journalist and co-founder of *Respublika 2000* who died as a cause of a hit-and-run accident on 17 November.

On **Ukraine**: my Office continues to be concerned with media developments in this participating State, where I have spent enormous efforts over the past four years on monitoring developments and providing assistance. I spoke in detail on our project work in my last quarterly report in October.

Since then, another Ukrainian journalist was found dead, the circumstances surrounding this tragedy still murky. I have asked the authorities to provide my Office with additional information regarding the recent discovery in Belarus of the body of Mikhailo Kolomiets, head of the Ukrainian news agency *Ukrainski Novyny*.

Kolomiets disappeared on 21 October and his news agency reported him missing on 28 October. Ukrainian Interior Minister Yuri Smirnov announced the discovery of Kolomiets' body on 18 November in Belarus, hanging from a tree in a forest near the town of Molodeshno.

An official of the Ukrainian ministry, Volodymyr Yevdokimov, told the media that it was clearly a case of suicide unconnected to the journalist's work. However, I would appreciate a more detailed report on the investigation and I do hope to receive it in a reasonable time frame which was not (and still is not) the case with the investigation into the Gongadze murder.

On 4 December Parliamentary hearings on the media situation in Ukraine were held in Kyiv under the headline " Freedom of Expression and Censorship." An official from the Office of the OSCE Project Co-ordinator in Ukraine, who attended the hearings, informed my Office of the debate. I understand that the discussions were very open, with different, often even opposing views stressed. Overall, the speakers, deputies and media professionals, were very critical of the current state of affairs in the country, many of them underlining that although *de-jure* censorship did not exist, *de-facto* it was very much present. I look forward to continuing working closely with officials and journalists in Ukraine, and, hopefully, we will be able to rectify the situation through our joint efforts.

#### **On projects:**

On 28 November 2002 I invited media analysts and experts from Germany, France and Israel to attend a workshop organised by my Office in Vienna. The aim of the workshop was to identify a possible project on the **media situation in the Mediterranean Partners for Co-operation of the OSCE** (Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia).

As I mentioned in my opening remarks at the workshop, the deterioration of the situation for the media in the six OSCE Partners for Co-operation could have a direct negative impact on the media situation in some OSCE participating States. I am confident that there must be ways to address the lack of freedom of the media in the Mediterranean region, even though the OSCE Representative on Freedom of the Media doesn't have a direct mandate to intervene.

During the last few months my Office has been involved in a number of **legal initiatives in the OSCE region**. Media legislation has been reviewed in Armenia (draft law on media), Russia (amendments to the media law) and Tajikistan (all media legislation). In Croatia, an international expert is assisting the authorities in drafting and reviewing legislation on Croatian TV and Radio, *HRT*. The reviews of the draft media law in Transdniestria and the Moldovan draft law on broadcasting are underway.

On 16-17 December 2002, a seminar in Dushanbe will gather both local and international experts to discuss the legal situation concerning the media. Both the legal review commissioned by my Office as well as the proposal for a new law on media, drafted by a working group in Tajikistan commissioned by the RFOM, will be discussed. We hope that this seminar will be the next step in the dialogue and process that will result in bringing the Tajik media legislation into line with international standards on freedom of expression and media.

As a follow-up to the 4<sup>th</sup> Central Asia Media Conference, my Office is currently working closely together with the OSCE Centres in Central Asia on several project proposals, especially **Internet cafes for journalists** in the region.

The project on **Freedom and Responsibility: Media in Multi-lingual Societies**. Pointing out 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, Federal Republic of Yugoslavia (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. We are grateful for the financial support of the Swiss Government to this project.

In its second year (from 17 March until 15 November) the project *mobile.culture.container* visited the following cities: Mostar, Banja Luka (Bosnia and Herzegovina), Skopje and Bitola (former Yugoslav Republic of Macedonia), Mitrovica (Kosovo) and Novi Pazar (Serbia).

Along with ongoing discussions with young people about their future and the future of the region, different workshops and evening events, this year the *mobile.culture.container* concentrated on developing youth newspapers. In 2001 school newspapers were founded in Cacak, Gorazde and Visegrad. Further newspapers were established in 2002 in Mostar, Stolac, Blagaj, Banja Luka, Jajce, Skopje and in Mitrovica extending the existing network. A meeting of the members of the editorial teams in November 2002 helped further strengthen co-operation. Participants in the video and radio workshops were also able to present their achievements through public broadcasts on local radio and TV stations.

The decision that the *mobile.culture.container* visits Mitrovica in Kosovo was of especial importance. During its five weeks this project brought together young Albanians and Serbs from both parts of the city, for example, with the help of its radio workshop. The twenty participants in this workshop broadcast in Kosovo their own bilingual (in Albanian and Serbian) programme for four hours daily, six days a week. They called themselves *Radio Future*. Another example is the Mitrovica youth newspaper *Future* published in both languages (circulation: 2000 copies.)

The experiences of the past two years helped develop how this project could continue in 2003. In the future the *mobile.culture.container* will operate as a media container with the youth newspaper network being at the centre of its activities.

On 30 November 2002, I held a workshop on **Freedom of the Media and the Internet** in Vienna. The workshop featured six experts from Europe and the United States who contributed to a discussion about the possibilities and challenges the new information and communication technologies poses to freedom of expression and freedom of the media in the OSCE region. The participants of the workshop included experts from UNESCO, the Council of Europe, online media, Internet service providers, and from specialized NGOs as well as scholars and advisers from my Office.

This workshop had been a preparatory event for a conference on *Freedom of the Media and the Internet* that is intended 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. The conference will be organized by my Office and will take

place in Amsterdam, The Netherlands, in spring 2003. I would like to extend my sincere gratitude to the Dutch Government for the financial support it has provided for this workshop.