



**FREEDOM OF THE MEDIA:
ACCESS TO INFORMATION AND PROTECTION OF
JOURNALISTS**

**13 - 14 JULY 2006
HOFBURG, VIENNA**

FINAL REPORT

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1.

SUMMARY OF SHDM

The second OSCE Supplementary Human Dimension Meeting (SHDM) in 2006 on *Freedom of the Media: Protection of Journalists and Access to Information* took place on 13 and 14 July 2006 in Vienna.¹

The Meeting brought together a total of 246 participants, including 96 representatives from 73 non-governmental organisations (NGOs). 106 delegates from 44 of the 56 OSCE participating States were also present.² Additionally, a distinguished Keynote Speaker and a group of Introducers also participated in the Meeting.³

The first SHDM devoted to Freedom of the Media, took place in March 2001.⁴ The Meeting organised in 2006 presented another opportunity to reaffirm the OSCE commitments to freedom of the media. During the Meeting, participants, with valuable contributions from representatives of civil society and governments, examined concrete ways to implement OSCE commitments.

The Supplementary Human Dimension Meeting consisted of three Working Sessions:

1. Access to information
2. Freedom of opinion and expression: The role of voluntary professional standards in facilitating mutual respect and understanding
3. Protection of journalists: administrative measures

In addition to these working sessions, a number of side events, organized by SHDM participants, took place in the margins of the event.⁵

Introductory remarks for the **Opening Plenary** were delivered by Ambassador Frank Geerkens, Head of the OSCE Chairmanship Unit in the Ministry of Foreign Affairs of Belgium, followed by Mr. Miklós Haraszti, OSCE Representative on Freedom of the Media (RFOM), and Ambassador Christian Strohal, Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR)⁶.

Representing the Chairman-in-Office, Ambassador Geerkens noted that the Belgian OSCE Chairmanship “encouraged the organization of this SHDM because of the importance we attach to the freedom of the media and the work done by the OSCE Representative on Freedom of the Media, Mr. Haraszti.”⁷ He also stressed the important role played by the OSCE field missions and other OSCE institutions in the development of free media. Additionally, the importance of the OSCE Commitments on Freedom of the Media was stressed.

¹ Please see Annex I for the Agenda and Annex II for the Annotated Agenda of the Meeting.

² Please see Annex X for Statistics on participation and Annex XI for the List of Participants.

³ Please see Annex III for the text of the Keynote Speech, Annex IV for the introductory speeches and Annex V for biographical information on the speakers.

⁴ 12-13 March 2001 – SHDM on Freedom of Expression: New and Existing Challenges, the consolidated report for this Meeting can be found under:

http://www.osce.org/documents/odihr/2000/03/1789_en.pdf

⁵ Please see Annex IX for the list and description of the Side Events.

⁶ Please see Annex VII for the Opening Remarks of Ambassador Strohal.

⁷ Please see Annex VIII for the Opening Remarks by Ambassador Geerkens

Ambassador Geerkens also pointed out that “information means power”, and that the media is indeed the Fourth Estate. The Media has important tasks in democratic societies, including holding the government accountable, educating citizens, allowing for a venue for the expression of discontent, etc.

Ambassador Geerkens concluded his opening remarks by stressing the importance of media development and shortly summarizing the coming working sessions.

The OSCE Representative on Freedom of the Media, Mr. Miklós Haraszti, noted the important role both the NGOs and the delegates from the Governments have in media democratization.

Mr. Haraszti continued by identifying the links between the three working sessions and the current dangers that freedom of expression is facing in the OSCE region.

The first session on Access to Information outlined the great concern and sometimes the dilemma caused by the fact that some OSCE participating States are overly limiting access to information in the name of national security interests. Thus, they are hampering the investigative role of the media and its role of informing the citizens on issues of public interest, which would allow them to check on the government.

The second danger identified by the Representative is the trend in some participating States to pass new restrictive laws on freedom of expression, following the recent controversies and intercultural struggles caused by secular artistic depictions of culturally sensitive topics. Mr. Haraszti stressed that only a completely free media can be a responsible media. Therefore, self-regulation is the only means that can be conducive to increasing intercultural understanding.

Administrative measures taken against the media was another challenge discussed in the third working session. The RFOM stressed that while some administration is necessary for the media to function well, there is a worrying trend in some OSCE participating States to use administrative measures, seemingly based on a rule of law, in order to obstruct the operation of independent media outlets.

Mr. Haraszti’s speech was followed by the Opening Remarks of **Ambassador Christian Strohal, Director of the ODIHR**. Ambassador Strohal stated the importance that human rights and fundamental freedoms play in “the community of values that is the OSCE.” He went on to refer to the numerous commitments made by the 56 OSCE participating States on democracy and human rights, stressing that not only are these commitments “an acknowledgement of the importance of these freedoms, but they also form the basis of our work.”

The keynote speech was delivered by **Ms. Agnes Callamard, the Executive Director of Article 19**.⁸ Ms. Callamard started with a brief introduction of Article 19 as an NGO that defends and promotes freedom of expression worldwide.

She continued by addressing the relation between national security and freedom of the press. Although it is universally accepted that “certain restrictions to freedom of

⁸ Please see Annex III for the text of the Keynote Speech by Ms. Callamard.

expression are warranted to protect national security interests,” there has been a historical abuse of these restrictions. She defined the problem by saying that laws defining these restrictions that are too general and allow for a wide interpretation. Furthermore, it was pointed out that the sole responsibility for leaking information should lie with the official who leaked the information, not with the journalist.

In her recommendations she referred to the Johannesburg Principles, and the necessity to have a clearly and narrowly defined legislation on freedom of information. Ms. Callamard added that “anti-terror laws and the legitimate objective to protect the public from terrorism cannot justify illegitimate grounds for restricting freedom of expression and access to information.”

The second issue addressed by Ms. Callamard was hate speech. Using the examples of the controversies that took place in the last few months, she presented Article 19’s view, that “offensive or blasphemous statements do not constitute the appropriate benchmark for restrictions on freedom of expression.” She clearly made a distinction between blasphemous or offensive speech, which should not be regulated by governments, and hateful speech.

She recommended that an effective response would be a sustained commitment of the governments to promote equality of opportunity, instead of extending restrictions on freedom of expression. Ms. Callamard defined self-regulation as the preferred option to ensure media responsibility. When addressing hate speech regulations, she stressed the necessity of having carefully and narrowly defined restrictions.

In conclusion, she identified the benefits of freedom of expression: strengthening of the democratic framework, reducing corruption, aiding in the formation of a stable government with a broad public support, and being an essential component of human security.

The Opening Plenary was followed by three working sessions.

Session one on *Access to Information* was moderated by Mr. Roland Bless, Senior Advisor to the OSCE Representative on Freedom of the Media. The introductory speeches were delivered by **Mr. David Banisar, an international legal expert, and Mr. Pol Deltour, Secretary General of the Belgian Union of Professional Journalists.**

The session focused on the importance of access to information and on the laws that facilitate and restrict it. The issue has become more topical recently, as many states’ security concerns are growing. On the other hand, the need to safeguard human rights must also be considered.

Mr. Banisar drew the participants’ attention to the *Database on Access to Information* that is currently being compiled by the Office of the Representative on Freedom of the Media.

He continued by giving a picture of the current situation in the OSCE region. 35 OSCE participating States have a constitutional right to gain access to information. Almost all of them have national laws providing general rights to all citizens that

ensure their access to information (44 out of 56). Mr. Banisar gave an overview of the three laws that mainly affect freedom of information: access to information laws, official secret laws, and protection of sources legislation.

Mr. Deltour informed the audience of the Belgian Shield Law (or protection of sources law), which is deemed excellent by professionals. He stressed that confidential sources are as important as official sources in obtaining information and informing the public, and therefore need to be protected.

Following a remark stating that confidential sources are not necessarily always trustworthy, Mr. Deltour agreed, but responded by saying that it is the journalist's and editor's liability to double-check the facts.

On 7 April 2005, Belgium adopted a bill that offers protection to journalistic sources. Public authorities can not oblige journalists to reveal their confidential sources, unless the information is crucial in preventing acts of terrorism or acts posing a threat to the security of the people.

In the discussion that followed, several participants pointed out the delicate balance that exists between access to information and national security. However, several other participants expressed that access to information is a basic and inalienable human right, therefore heightened security measures do not justify the means used against journalists for publishing classified information.

Session two on *Freedom of Opinion and Expression: The role of voluntary professional standards and the promotion of mutual respect and understanding* was moderated by Mr. Miklós Haraszti, OSCE Representative on Freedom of the Media.

Introductory speeches were delivered by **Mr. Johann P. Fritz, Director of International Press Institute; Mr. Jehad Momani, Former Editor-in-chief of Jordanian newspaper Shihan; Ms Dunja Mijatovic, Director of the Broadcasting Division, Communications Regulatory Agency of Bosnia and Herzegovina; Ms. Martine Vallee, Director of Social Policy, Canadian Radio Television and Telecommunications Commission; Mr. Adam Krzeminski, Polish journalist and commentator, Chairman of the German-Polish Association in Warsaw; Mr. Ali Dilem, Cartoonist, Algerian daily Liberté; and Mr. Patrick Chappatte, Cartoonist, International Herald Tribune.**

This session addressed the question of how media can contribute to the promotion of mutual respect and understanding. It looked at the favourable role of self-regulation compared to governmental interference when handling freedom of expression.

Mr. Fritz began by giving a theoretical background to the issues at stake in this session: journalistic ethics, self regulation, governmental regulation and international regulation, when addressing the relationship between freedom of the press and religion.

He remarked that numerous attempts have been made in the past by governments to regulate the media; he called these attempts "unrealistic". According to him, self-regulation and, more specifically, press councils represent the more realistic approach.

The media should regulate itself through press councils for four reasons: (1) they protect the right of the public by providing a venue for complaints about unethical or bad journalism; (2) they protect the media themselves, as they allow the media to express their sense of responsibility to the public and the authorities; (3) they can act as a mediator between the media and the public; (4) they improve media quality by defining what is good and bad journalism.

Mr. Momani elaborated on his personal experiences with, and reasons for, republishing the controversial Danish cartoons. He “chose to act like a journalist” and inform the public about what was really published, instead of letting people protest against something they had never seen. Since the publication of the cartoons, he has not been allowed to work in the media in Jordan.

The following speaker, Ms. Mijatovic, shared her experience in regulating the broadcasters in Bosnia-Herzegovina. She also identified the preconditions for a healthy media environment: freedom of expression; access to information; editorial independence; encouraging self regulation among broadcasters; the existence of an independent regulatory body; a strong public service broadcaster with a variety of programs, free and shielded from political or direct commercial influence and pressure; balance between private and public media; training for journalists and the healthy and active involvement of the civil society.

Ms. Vallee noted that the right to freedom of expression comes with responsibilities, especially where broadcasting is concerned, as the privilege to operate a radio or television station is granted to only a few citizens. As a result, regulators and broadcasters themselves generally recognize that broadcasters are most likely to enjoy the benefits of journalistic freedom and creative independence when their responsibilities are clearly articulated and agreed-upon by all stakeholders. She shared her experience in Canada, describing how all the ethnic and cultural groups are fairly represented in the broadcasting media.

Mr. Krzeminski outlined the historical role played by satire in Europe, as early as the 16th century. He stressed that public opinion must live with criticism, and although limits do exist, these should be set by the media themselves.

Mr. Chappatte explained that cartoons are a powerful tool of communication that can sometimes be hurtful. He stressed that what has been at stake in the cartoon controversy is the misuse of the cartoons, by both sides, and not the cartoons themselves. Self-regulation should be used to ensure a responsible behaviour of a free press.

The panel was closed by **Mr. Dilem**, who summarized the panel discussion by saying that “nobody should fear for their life because of a cartoon.”

In the debate that followed the participants agreed that freedom of expression comes with certain responsibilities. There was, however, no consensus on how these responsibilities should be enforced. Several speakers stressed the necessity for more government control. An overwhelming majority of speakers agreed with the panel that government control should be avoided, and self-regulation is to be preferred.

However, this mechanism would still have to be established in some OSCE participating States, and reinforced in others.

The participants also agreed that media should avoid reinforcing cultural, religious or ethnical stereotypes, but instead promote mutual understanding. Consequently, they stressed the need for continued training of journalists.

Session three on *Protection of Journalists: Administrative Measures* was moderated by Ms. Heidi Smith, Senior Advisor the OSCE Representative on Freedom of the Media. Introductory speeches were delivered by **Ms. Ioana Avadani, Executive Director of the Centre for Independent Journalism in Bucharest, and Mr. Azer Hasret, Director of the Central Asian and Southern Caucasian Freedom of Expression Network.**

The aim of this session was to have a closer look at a worrisome trend in several OSCE participating States, where additional restrictive administrative mechanisms have been adopted, or, in some cases, the existing legislation is not implemented properly. This results in unnecessary procedural restrictions to the free functioning of the media. These restrictive measures include lengthy accreditation or registration procedures, taxation issues, misuse of libel legislation, restricted market access for certain media outlets, etc. In most cases, these measures are used against the independent media, and not the state media.

Ms. Avadani gave an overview of the current situation in South Eastern Europe, Eastern Europe and Central Europe. She defined the problem by saying that “there is the law, and then there is the implementation of the law.” She pointed out that although in most countries permissive laws are in place, they are not implemented correctly. According to Ms. Avadani, the main examples of this phenomenon are limited access to information and the criminal prosecution of libel and insult. .

She continued by illustrating how administrative measures affect the functioning of free media. Incomplete information on media ownership, lengthy registration of media companies, licensing of broadcasters, accreditation of journalists, bureaucratic advertisement allocation were given as examples.

Mr. Hasret elaborated on the situation in the South Caucasus and Central Asian countries. The South Caucasus countries (Azerbaijan, Armenia and Georgia) face similar problems with licensing, accreditation, lack of media ownership transparency, and physical threat to journalists.

In the Central Asian countries the measures taken against the media are very similar, albeit to different degrees. The internet is generally monitored, or unavailable. Opposition newspapers are regularly suspended or non-existent. The registration procedures for independent media outlets are difficult. Journalists are legally prosecuted for doubtful reasons, such as libel, hooliganism, or stealing. Often they face problems with acquiring accreditation and visas, or are physically threatened.

Mr. Hasret concluded his speech by citing a part of the March 2003 *Baku Declaration*, and calling upon the South Caucasus and Central Asian states to comply with international standards and OSCE commitments. He also called upon the OSCE

and other international organizations to continue monitoring these countries, and provide them with assistance in media development.

In the floor discussion that followed, it became very clear that the NGO and independent media community of the region has first hand experiences in the above mentioned problems. The representatives of the governments from Central Asia and the South Caucasus, however, claimed that the administrative measures that are being taken are absolutely legitimate, while regretting the unfortunate physical harassment of some journalists.

The recommendations highlighted that licensing should be strictly used for Public Service Broadcasters, and that the RFOM could assist by commissioning legal reviews. Concerning the Kazakh legislation, one participant called upon the OSCE to make sure that in case Kazakhstan wants to become Chairman in Office, first they should comply with OSCE commitments.

In addition to the country-specific examples and the exchange of best practices, the participants made concrete recommendations all throughout the three working sessions.⁹

The closing remarks at the **Closing Plenary** were delivered by **Mr. Miklós Haraszti, the OSCE Representative on Freedom of the Media, and Ambassador Bertrand de Crombrughe, Chairman of the OSCE Permanent Council.**¹⁰

The moderators of the working sessions gave a short overview of the main issues and recommendations that were discussed during the three sessions.

Mr. Haraszti kept his closing remarks short, as the moderators already summarised the working session. He stressed again the importance of what had been discussed between the civil society and governmental representatives. He extensively thanked the speakers, the participants, the Belgian Chairmanship, ODIHR, the Conference Services, the translators, and his staff.

Ambassador de Crombrughe said that freedom of the media was one of the priorities of the Belgian Chairmanship. He noted that “in the wake of new terrorist threats and technological evolutions, the climate in which the media is operating vis-à-vis public authorities” seems to become increasingly difficult.

He also stressed that “free media is a building block and catalyst for a whole range of human rights”. Nevertheless, journalists have a responsibility when doing their job. However, these responsibilities should be enforced through self-regulatory systems, in order to ensure the liberty of the media.

Ambassador de Crombrughe pointed out that the SHDM showed the difficulties that the media is facing ‘east and west’ of Vienna, and thus showcased that the OSCE deals with ‘compliance for all’ everywhere. He re-iterated the need for media development. His closing remarks ended by ensuring the participants that the

⁹ These recommendations are summarized in Chapter II.

¹⁰ Please see Annex VIII for the Closing Remarks by Ambassador de Crombrughe.

Chairmanship will do “everything that lies in its power to ensure an appropriate follow-up” to this SHDM.

2. RECOMMENDATIONS

This part of the report focuses on recommendations that were given during the three working sessions. The following broad range of recommendations was made by delegations of the OSCE participating States, international organizations, and NGOs, and aimed at various actors, such as the OSCE participating States, OSCE Institutions and field operations, as well as other international organizations and NGOs.

These recommendations have no official status, they are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the view or policy of the OSCE. They are, however, a useful indicator for the OSCE in reflecting upon how participating States are meeting their commitments, determining future priorities, and considering possible new initiatives relevant to the freedom of the media.

Recommendations to the OSCE participating States

- In a period when global terrorism remains a major concern, demands for improved national security are legitimate, but governments also need to continue to observe the citizens' right to know. The balance between national security and freedom of expression must be maintained;
- State bodies should create and maintain websites that contain all information required by laws;
- An information commissioner should be appointed to supervise the implementation of access to information laws;
- Clear responsibilities should be established as to who can refuse or provide information;
- Governments should facilitate the correct implementation of access to information laws through a wide awareness-raising campaign for the public and government officials;
- Participating States should start phasing out all punitive laws that hinder the free flow of information and restrict an uninhibited debate of public issues. Governments should start amending the punitive provisions on breach of confidentiality, in order to bring them into line with modern concepts of the overriding public interest;
- In democracies, civilians, including journalists, cannot be treated as criminals merely for obtaining state secrets. Journalists are even entitled by law to keep their confidential sources to themselves. The media cannot be held accountable for revealing confidential information.
- No new laws that forbid insulting religions should be passed. Existing hate speech regulations are sufficient. These laws have to be carefully and narrowly designed

to promote protection from discrimination. Blasphemy or libel are not to be considered hate speech;

- Take constructive measures that acknowledge, accept, and reflect the multi-cultural and multi-faith character of our societies;
- Systematically reject the identification of terrorism and violent extremism with any religion or belief, culture, ethnic group, nationality or race. Policies that target or profile particular communities as a threat to security should be avoided;
- Address the root causes of prejudice against certain communities through education. Anti-discrimination educational policies should be comprehensive in scope;
- Promote a strong independent Public Service Broadcasting respectful of cultural diversity.
- Baku Declaration of 20 March 2003¹¹;
- Licensing should only be used for broadcasters. However, in a digital era licensing should become obsolete;
- TV licensing should be done timely in order to avoid a lack of transparency in media ownership;
- Judges need to be trained to correctly implement the existing laws;
- Governmental support for pro-governmental media through different means, e.g. forced subscription or advertising, should cease;
- Freedom of movement – an OSCE commitment - should be ensured. Journalists should be granted entry and exit visa more easily;
- State media should be privatised;
- The Government must have a pro-active role in ensuring a safe working environment for journalists, even when they cover unauthorized events;
- The lack of permission for an actual event should not be a reason to prosecute the journalists covering the event. The society has the right to be informed about all issues of public importance;
- Governments should combat impunity with regard to violence against journalists and media personnel, by bringing to justice those responsible for attacks against them, and by taking measures that enable journalists and media personnel to continue providing information freely and independently.

¹¹ For complete over view of the Baku Delegation see Summary of Session 3

Recommendations to the OSCE, its Secretariat, Institutions and Field Missions:

- Self-regulatory bodies should be established if they are not yet existing, or reinforced if they do exist, with the support of the Office of the Representative on Freedom of the Media (RFOM);
- The OSCE and its institutions should continue to monitor and ensure that the participating States respect their media commitments;
- The RFOM should continue to assist the participating States in their efforts to comply with OSCE commitments, for example through trainings, interventions, and legal reviews;
- The RFOM should enable specialised training of officials and judges on access to information;
- Provide trainings on how to report accurately on diversity-related issues in general and on Muslims and Islam in particular. The training and educational initiatives should be practical and comprehensive in scope, and targeted towards editors and journalists, professors and students of journalism, as well as the bodies responsible for the creation and maintenance of media standards;
- Take positive steps to strengthen media bodies so that they have an increased capacity to assess and regulate media quality, and particularly to develop professional codes of conduct and ethical standards to deal with religious and cultural issues;
- Promote dialogue and cooperation between media professionals and journalists of different cultures in order to promote intercultural understanding, raise awareness of different world views and personal subjectivity in reporting, and in order to promote an exchange of best practices in responsible, ethical and quality reporting;
- Efforts should be deployed towards “Journalism for Peace” trainings on how to report fairly on conflict situations and how journalists can help de-escalate tension;
- Media professionals and their relevant work aimed at promoting cultural diversity should be supported through awards.
- The OSCE should be more attentive to the Central Asian region and give more assistance to developing free media;
- The OSCE should provide legal expertise and assist participating States in designing Public Service Broadcasting legislation;
- The RFOM should consider organising a regional conference on media regulation in Russia, Belarus, Moldova and the Ukraine;
- The RFOM should continue his efforts to decriminalise libel.

Recommendations to others, including media professionals:

- Journalists and editors have to ensure the accuracy of the information they publish by checking their confidential sources and verifying this information with other sources. Journalists should be held liable for disseminating false information;
- The media should establish acceptable working conditions for journalists employed by them, including sufficient financial remuneration. Journalists should be able to work without the pressure of the media owners;
- The media should regulate itself through press councils. It should develop and apply professional codes of conduct and ethical standards, which will also deal with religious and cultural issues;
- Media should employ more journalists who represent communities with different religious and/or cultural backgrounds;
- Journalists should improve the quality of their work.

Recommendations to other intergovernmental organizations and to non-governmental organizations

- Raise public awareness to the fact that access to information is a citizen's right.
- Implement training on how to promote intercultural understanding, raise awareness about cultural understanding, and report on diversity-related issues in general and on Muslims and Islam in particular.
- When respect for traditions is recommended, it should be mutual.
- The debate over the satirical depictions should not pit freedom of speech against more respect and more care. Enhanced awareness of the Muslim culture, and a better responsiveness to global imperatives in the editorial work should come as an addendum to free speech, not as a restriction of it. It should be made very clear that only a completely free press can be a responsible press.

3. SUMMARIES OF SESSIONS

SESSION 1: Access to Information

Moderator: **Mr. Roland Bless**, Senior Advisor to the OSCE Representative on Freedom of the Media

Introducers: **Mr. David Banisar**, International Legal Expert, Consultant for RFOM's Access to Information Project, London

Mr. Pol Deltour, Secretary General of the Belgian Union of Professional Journalists

The session focused on the importance of access to information, and on the laws that facilitate and restrict it. The issue has become more topical recently, as many states face growing security concerns, while the protection of basic human rights remains crucial.

David Banisar in his introductory speech outlined the current RFOM project that aims to collect data on the three types of laws currently shaping journalists' access to information in the OSCE region. Mr. Banisar serves as an independent legal consultant for the RFOM on this project. The survey will identify how useful the laws are, in what time frame the State bodies should provide access to information, whether the "public interest test" is applied, and how access laws interact with other legislation, including laws on state secrets, confidentiality, or commercial secrets.

He shared the preliminary findings with the audience, and offered a general overview of what access to information entails. 35 OSCE participating States have a constitutional right of access to information. Almost all of them have national laws providing general rights of access to information to all citizens (44 out of 56). These laws form the first group of laws that were examined. Besides, media laws of some participating States offer greater right of access to information for journalists, such as access to meetings, and quicker access to official information.

The second type of laws the survey is focusing on are the laws on official secrets and confidentiality, which are often related to national security. This group also includes specialised legislation on intelligence archives. The focus will be on the applicability of these laws to the media, and consideration of public interest.

The third category of laws is related to the protection of journalistic sources. This part of the survey will determine whether sufficient protection is offered to journalists and their confidential sources, and whether alternative means, such as surveillance, wiretapping, etc., may be applied by governments.

The second introducer, **Pol Deltour**, shared his experience on the Belgian 'shield law'. He stressed that confidential sources are at least as important as official sources, and therefore need to be protected.

He emphasized that freedom of information contains two elements relevant to media freedom: freedom to (1) collect and to (2) communicate information. The ECHR in

the case of *Jersild v. Denmark* ruled that the right to protect sources is the cornerstone of freedom of information.¹² While the right to protect confidential sources has to be guaranteed as much as possible, this does not free journalists from professional responsibility for their reporting. Therefore, Mr. Deltour stressed that journalists must counter-check their information, and make sure that the information received, even from a confidential source, is correct.

Mr. Deltour stressed how vital it is for any democracy that official information is communicated to the people adding that even in advanced democracies a lot of essential information is not being conveyed to the public, for example on matters of corruption in politics and sports, or in issues of incompetence of officials.

Belgium adopted a law on the protection of sources on 7 April 2005, after several searches were conducted in media outlets by Belgian authorities in order to discover confidential information. This law states that public authorities can not oblige journalists to reveal their sources, unless the information is crucial in preventing acts of terrorism, or acts posing a threat to national security. Additionally, only a judge can request the media to reveal sources and order surveillance, searches, or telephone tapping. Two preconditions have to be met if sources are to be revealed: (1) the information is crucial for the investigation into a crime, and (2) the information cannot be obtained in any other way.

After the introductory speeches, the participants discussed several aspects concerning access to information. The fight against terrorism should not restrict access to information. Some participants stressed the need to maintain a balance between access to information and national security. It was stressed that access to information is a basic pre-requisite for the media to be able to perform its role and inform the public.

Recommendations to the OSCE participating States:

- The balance between national security and freedom of expression must be maintained;
- Laws regulating access to information have to be implemented correctly;
- State bodies should create and maintain websites with all information required by laws;
- An information commissioner should be appointed to supervise the implementation of access to information laws;

¹² The *Jersild v. Denmark* judgment of 23 September 1994, Series A no. 298, p. 23, para. 31). The European Court of Human Rights (ECHR) said that “Protection of journalistic sources is one of the basic conditions for press freedom, as is reflected in the laws and the professional codes of conduct in a number of Contracting States and is affirmed in several international instruments on journalistic freedoms... Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public-watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected”.

- Governments should facilitate the implementation of access to information laws through a wide awareness-raising campaign;
- Clear responsibilities should be established as to who can refuse or provide information.

Recommendations to the OSCE, its Secretariat, Institutions and Field Missions:

- The OSCE and its institutions should continue to monitor and ensure that the participating States respect their media commitments;
- The RFOM should continue to assist the participating States in their efforts to comply with OSCE commitments, for example through trainings, interventions, and legal reviews;
- The RFOM should facilitate specialised training of officials and judges on access to information.

Recommendations to others, including media professionals:

- Journalists and editors have to ensure the accuracy of the information they publish, by checking their confidential sources and verifying this information with other sources.
- Media professionals should establish self-regulatory mechanisms, and ensure that the codes of ethics are respected.
- The media owners should ensure acceptable working conditions for journalists employed by them, including sufficient financial remuneration.

SESSION 2: Freedom of Opinion and Expression: The role of voluntary professional standards in facilitating mutual respect and understanding

Moderator: **Mr Miklos Haraszti**, OSCE Representative on Freedom of the Media

Introducers: **Mr. Johann P. Fritz**, Director of International Press Institute

Mr. Jihad Momani, Former Editor-in-chief of Jordanian newspaper *Shihan*

Ms Dunja Mijatovic, Director of the Broadcasting Division, Communications Regulatory Agency of Bosnia and Herzegovina

Ms. Martine Vallee, Director of Social Policy, Canadian Radio Television and Telecommunications Commission

Mr. Adam Krzeminski, Polish journalist and commentator, Chairman of the German-Polish Association in Warsaw

Mr. Patrick Chappatte, Cartoonist, *International Herald Tribune*

Mr. Ali Dilem, Cartoonist, Algerian daily *Liberté*

The session addressed the question of how the media can contribute to the promotion of mutual respect and understanding. It looked at the role of self-regulation compared to governmental interference when dealing with freedom of expression. The recent cartoons case was often referred to as an example.

Mr. Fritz began by condemning the general deterioration of the international rules for freedom of opinion and expression in the world.

He remarked that numerous attempts have been made in the past by governments to regulate the media, and called these attempts “unrealistic”. According to him, self-regulation, and more specifically press councils, are a more realistic approach. The media should regulate itself through press councils for four reasons: (1) they protect the right of the public by providing a venue for complaints concerning unethical or bad journalism; (2) they protect the media themselves as they allow the media to express their sense of responsibility to the public and to the authorities; (3) they can act as mediators between the media and the public; (4) they can improve media quality by defining what is good and bad journalism.

Mr Fritz emphasized that international legal texts promoting tolerance and combating incitement to hatred already exist and are sufficient.

In the wake of the cartoons controversy, Mr Fritz found it very disappointing that politicians responded only in terms of media responsibility, which, he further argued,

encompasses different interpretations. He pointed out that, ideally, religious leaders should have been called to act likewise, which was obviously not the case.

Mr. Momani elaborated on his personal experiences with, and reasons for, republishing the controversial “Danish cartoons”. He “chose to act like a journalist” and inform the public about what was really published, instead of letting people protest against something they had never seen. Since the publication of the cartoons, he has not been allowed to work in the media in Jordan.

Mr Momani acknowledged that publishing the cartoons may have strengthened radicalism. However, he insisted that terrorist acts perpetrated in the name of Islam would bring more prejudice to Islam than any cartoon.

Eventually, Mr Momani recalled the need for journalists to be fully aware of religious and cultural sensitivities when performing their work.

The following speaker, **Ms. Mijatovic** shared her experience in regulating the Bosnian broadcasters in Bosnia-Herzegovina. She also identified the preconditions for a healthy media environment: freedom of expression; access to information; editorial independence; encouraging self regulation among broadcasters; the existence of an independent regulatory body; a strong public service broadcaster (PSB) that produces a variety of programs free from political and commercial influence and pressure; a balance between private and public media; training for journalists and the healthy and active involvement of the civil society.

Ms. Vallee noted that the right to freedom of expression comes with responsibilities, especially where broadcasting is concerned, as the privilege to operate a radio or television station is granted to only a few citizens. As a result, regulators and broadcasters alike generally recognize that broadcasters are most likely to enjoy the benefits of journalistic freedom and creative independence when their responsibilities are clearly articulated and agreed-upon by all stakeholders. She shared her experiences in Canada about the correct representation of all ethnic and cultural groups in the broadcasting media.

She explained that the Canadian model imposes obligations on broadcasters to improve representation and portrayal in the media. The burden is put on the industry itself to come up with the initiatives and solutions that will help accomplish this. This strategy increases broadcasters’ understanding of the issues at hand, and tends to result in greater acceptance by the industry. It also generates solutions that are consistent with broadcasters’ business strategies. The beauty of industry codes is that they are created and agreed upon by the broadcasters themselves, and are developed in consultation with the public.

Mr. Krzeminski outlined the historical role played by satire in Europe, starting as early as the 16th century. He stressed that public opinion must live with criticism, and although limits do exist, these should be set by the media themselves.

Mr. Chappatte explained that cartoons are a powerful tool of communication that can sometimes be hurtful. At the same time, cartoons allow for a unique and critical look at the society. According to Mr. Chappatte, freedom of publishing satire is

currently under serious threat all over the world. He stressed that what has been at stake in the “cartoon controversy” is the misuse of the cartoons by both sides, and not the cartoons themselves.

He emphasized that self-regulation should be used to ensure a responsible behaviour of free press. Therefore, there is no need to pass new laws that forbid insulting religions. While Mr. Chappatte acknowledged that any freedom carries responsibilities with itself, he insisted that there is no responsibility whatsoever without a certain level of freedom being provided in the first place.

The panel was closed by **Mr. Dilem**, who summarized the panel discussion by saying that “nobody should fear for their life because of a cartoon.”

After the introducers’ presentations, interventions from the OSCE delegations as well as NGOs followed.

During the debate, the participants agreed that freedom of expression comes with certain responsibilities. There was, however, no consensus on how these responsibilities should be enforced. Several speakers stressed the necessity for more government control. Other speakers agreed with the panel in that governmental control should be avoided, and self-regulation is to be preferred. However, these would still have to be established in some OSCE participating States, and reinforced in other.

The participants expressed their attachment to freedom of expression, which is seen as one of the basic prerequisites of truly democratic and civil societies. However, several speakers stressed that there are a number of legal and moral limits to the freedom of expression, whose delimitation varies a great deal according to the regions.

Referring to the cartoons case, criticism was expressed towards the lack of moderation and restraint, vis-à-vis both those exercising freedom of expression with due respect for religious and moral values, as well as the violence that took place.

One participant emphasized that the real issue at stake was not the publication of the cartoons itself, but the ineffective action or rather non-action by the responsible authorities when the signs of crisis first emerged.

The participants also agreed that the media should avoid strengthening stereotypes, but instead it should promote mutual understanding. Consequently, they stressed the need for more journalist trainings in this field.

One cause for strengthening stereotypes was considered to be biased reporting. According to one speaker, recent events such as the September 11 attacks led to increased islamophobia.

Another speaker pointed out that cartoons can hurt anywhere, for example cartoons published in the Arab-Muslim world might well hurt the feelings of Europeans.

Recommendations to the OSCE participating States:

- No new laws that forbid insulting religions are needed. Existing hate speech regulations need to be carefully and narrowly designed to promote protection from discrimination. Blasphemy or libel are not to be considered hate speech;
- Take constructive measures that acknowledge, accept, and reflect the multi-cultural and multi-faith character of our societies;
- Systematically reject the identification of terrorism and violent extremism with any religion or belief, culture, ethnic group, nationality or race. Policies that target or profile particular communities as a threat to security should be avoided;
- Address the root causes of prejudice against communities through education. Anti-discrimination educational policies should be comprehensive in scope;
- Promote a strong independent Public Service Broadcasting respectful of cultural diversity;

Recommendations to the OSCE, its Secretariat, Institutions and Field Missions:

- Provide trainings on how to report accurately on diversity-related issues in general, and on Muslims and Islam in particular. Training and educational initiatives should be practical and comprehensive in scope, and targeted towards editors and journalists, professors and students of journalism, as well as the bodies responsible for the creation and maintenance of media standards;
- Take positive steps to strengthen media bodies so that they have an increased capacity to assess and regulate media quality, and particularly to develop professional codes of conduct and ethical standards to deal with religious and cultural issues;
- Promote dialogue and co-operation between media professionals and journalists of different cultures in order to promote intercultural understanding, raise awareness of different world views and personal subjectivity in reporting, promote an exchange of best practices in responsible, ethical, and high quality reporting;
- Efforts should be deployed towards “Journalism for Peace” trainings on how to report fairly on conflict situations, and how journalists can help de-escalate tension;
- Media professionals and their relevant work aimed at promoting cultural diversity should be supported through awards;

Recommendations to others, including media professionals:

- The media should regulate itself through press councils. It should develop professional codes of conduct and ethical standards, which will also deal with religious and cultural issues;
- Media should employ more journalists from communities with different religious and/or cultural backgrounds;

- Journalists need to verify and re-verify the information they obtain. Journalists who invent stories have to be dismissed;
- Journalists should be able to work without the pressure of the media owners.

SESSION 3: Protection of Journalists: Administrative measures

Moderator: **Ms. Heidi Smith**, Senior Advisor to the OSCE Representative on Freedom of the Media

Introducers: **Ms. Ioana Avadani**, Executive Director of the Centre for Independent Journalism, Bucharest

Mr. Azer Hasret, Director of the Central Asian and Southern Caucasian Freedom of Expression Network

The Session focused on a worrying trend in the OSCE region where a number of participating States are adopting restrictive administrative measures to put pressure on free media. Where state press exists, these measures are directed against independent media. Different means can be used to hamper the media through administration, including accreditation, taxation, registration, and licensing.

The first speaker, **Ms. Ioana Avadani**, gave an overview of the situation in Central and Eastern Europe, the Balkans, Turkey, and Belarus. She defined the main difficulties the media face in the region.

The first problem Ms. Avadani addressed was access to information. She stated that the most countries in the above mentioned regions often have better freedom of information legislation than Western countries. The implementation of the legislation, however, is not carried out properly. Sub-legislative acts ensuring the proper implementation of the laws are still missing, and thus access remains limited.

According to Ms. Avadani, the criminal prosecution of libel and insult is another obstacle to free press. Again, the laws are in place but not implemented.

Other means that can be used to restrict the media are registration and licensing of broadcasters. Although some form of registration of electronic media is necessary to allow for media ownership transparency, it also gives the government a tool to control it. The licensing of broadcasters is a legitimate way to allow broadcasting operation; it is a means to secure proper administration, and simultaneously to ensure a free and competitive market. The problem, however, is that the current licensing legislation is not up to date with the recent developments in the broadcasting media, and for example cannot guarantee transparency any longer for digital broadcasting.

Other ways to hinder the free functioning of the media include taxation policies, accreditation procedures for journalists, discretionary allocation of state advertising, excessive administrative controls, discriminatory treatment in dues and debts collection, or arbitrary allocation of frequencies.

The second speaker was **Mr. Azer Hasret**. He gave an overview of the media situation in the South Caucasus and Central Asian states, paying special attention to restrictive administrative measures taken by authorities to silence the free media.

Mr. Hasret stressed that journalists in the region are not only facing administrative obstacles, but they are also being physically harassed. One of the administrative

problems faced by the media is the licensing of broadcasters, and the state control of TV channels.

Opposition newspapers are being confronted with rigid registration rules, and, additionally, journalists from these newspapers are facing increasing difficulties with their accreditation, with receiving visas. This poses a problem not only for domestic, but also for international journalists. Some opposition media outlets have to pay exorbitantly high fines, or they get suspended for not paying bills on time, not being registered correctly, etc. Journalists are also harassed, for example with fines, arrests, or libel cases.

Access to the Internet creates another problem, mainly in Central Asia. In most Central Asian countries the Internet is filtered, and sites from organisations such as RFE or IWPR are blocked. Additionally, Internet is usually not readily available to the public.

During the discussion that followed, most participants agreed that as a consequence of such “muscle administration”, pluralistic media in the South Caucasus and in Central Asia have been disappearing. It was also stated that both physical and administrative harassment is used in order to curtail the functioning of free and pluralistic media.

Other participants, however, stressed the necessity of such administration to guarantee media ownership transparency, and claimed that it did not influence freedom of the media. It was concluded that some administration of the media is justified; however, the state should not be allowed to control, or monopolize, the media through these administrative means.

The conclusion of the discussion was that in most cases laws are in place, and therefore no new legislation is needed, but the existent legislation should be implemented correctly.

Recommendations to the OSCE participating States:

- Baku Declaration (20 March 2003):
 - To bring legislative base into accord with international norms;
 - To abolish all kinds of state organs engaged in regulating the activities of mass media;
 - To create all necessary conditions for a normal functioning of mass media;
 - To forbid to the state bodies to establish mass media;
 - To allow journalists to move in the five countries of Central Asia and the three countries of Southern Caucasus without any visa.
- Licensing should only be used for broadcasters; however, in a digital era licensing should become obsolete;
- TV licensing should be done timely in order to avoid a lack of transparency in media ownership;
- Judges need to be trained to implement the existing legislature correctly;

- No new (restrictive) legislation should be introduced, while a better implementation of the existing legislation should be enforced;
- Governmental support for pro-governmental media through different means, such as forced subscription or advertising, should cease;
- Freedom of movement – an OSCE commitment - should be ensured. Journalists should be granted entry and exit visas;
- State media should be privatised.

Recommendations to the OSCE, its Secretariat, Institutions and Field Missions:

- The OSCE should be more attentive to the Central Asian region and give these member States more assistance in their efforts to develop free media;
- The OSCE should provide legal expertise and assist participating States in designing Public Service Broadcasting legislation;
- Self-regulatory bodies should be established where they do not exist yet, or reinforced where they already exist, with the support of the Office of the Representative on Freedom of the Media;
- The Representative on Freedom of the Media should consider organising a regional conference on media regulation in Russia, Belarus, Moldova, and the Ukraine;
- The Representative on Freedom of the Media should continue his efforts to decriminalise libel.

Recommendations to others, including media professionals:

- Journalists should continuously strive to improve the quality of their work, including adapting to societal, cultural, and technical changes.

4. ANNEXES

ANNEX I: AGENDA

Day 1 **13 July 2006**

15.00 - 16.00 **OPENING SESSION:**

Opening remarks

Ambassador Frank Geerkens, Head of the OSCE Chairmanship Unit, Ministry of Foreign Affairs of Belgium

Mr. Miklós Haraszti, OSCE Representative on Freedom of the Media

Ambassador Christian Strohal, Director of the OSCE/ODIHR

Keynote speech

Ms. Agnes Callamard, Executive Director of Article XIX

Technical information by the OSCE/FOM

16.00 - 18.00 **Session I: Access to Information**

Introductory speeches

Mr. David Banisar, International legal expert, consultant for RFOM's Access to Information Project, London

Mr. Pol Deltour, Secretary General of the Belgian Union of Professional Journalists

Moderator

Mr. Roland Bless, Senior Advisor to the OSCE Representative on Freedom of the Media

Discussion

18.00 **Reception by the Belgian Chairmanship of the OSCE**

Day 2 **14 July 2006**

09.00 - 12.00 **Session II: Freedom of Opinion and Expression: The role of voluntary professional standards in facilitating mutual respect and understanding**

Introductory speeches

Mr. Johann P. Fritz, Director of International Press Institute, Vienna

Mr. Jehad Momani, Former Editor-in-chief of Jordanian newspaper Shihan

Ms Dunja Mijatovic, Director of the Broadcasting Division,
Communications Regulatory Agency of Bosnia and
Herzegovina

Ms. Martine Vallee, Director of Social Policy, Canadian
Radio Television and Telecommunications Commission

Mr. Adam Krzeminski, Polish journalist and commentator,
Chairman of the German-Polish Association in Warsaw

Mr. Ali Dilem, Cartoonist, Algerian daily Liberté

Mr. Patrick Chappatte, Cartoonist, International Herald
Tribune

Moderator

Mr. Miklós Haraszti, OSCE Representative on Freedom of the
Media

Discussion

12.00 - 14.00

Lunch

14.00 - 16.00

**Session III: Protection of Journalists: Administrative
Measures**

Introductory speeches

Ms. Ioana Avadani, Executive Director of the Centre for
Independent Journalism, Bucharest

Mr. Azer Hasret, Director of the Central Asian and Southern
Caucasian Freedom of Expression Network

Moderator

Ms. Heidi Smith, Senior Advisor to the OSCE Representative
on Freedom of the Media

Discussion

16.00 - 16.30

Break

16.30 - 17.30

CLOSING PLENARY:

Reports by the Working Session Moderators

Comments from the floor

Closing Remarks

Mr. Miklós Haraszti, OSCE Representative on Freedom of the
Media

Ambassador Bertrand de Crombrughe, Chairman of the
OSCE Permanent Council

17.30

Close of day 2

ANNEX II: ANNOTATED AGENDA

Introduction

The OSCE has rightfully recognised that free and well-developed media are a cornerstone for stable and peaceful societies.¹³ Furthermore, the first Supplementary Human Dimension Meeting (SHDM) in 2001 was devoted to the theme of freedom of the media. The second SHDM in 2006 builds on existing commitments and this previous meeting.

This SHDM will look at three major challenges in the domain of freedom of the media.

The first session will address the issue of the media's access to government-held information. Throughout the OSCE region, there are different practices and information "cultures" in place. Unfortunately, OSCE commitments in this regard are often neglected or contravened and best practices are not applied everywhere.

The session could discuss the recently occurred tensions throughout the OSCE region between security needs of States and investigative rights of the media.

*The second session*¹⁴ will be a special event with a panel of high-profile speakers. These experts will discuss voluntary professional standards that may be able to accommodate freedom of expression, and promote mutual respect and understanding in a compatible way. In a democratic society it is vital that the media remain independent from governmental control. However, the media can also be sensitized to help it ensure that the portrayal of different segments of society is non-discriminatory and unbiased.

The panel will also look more closely into the political, social and cultural context of such conflicts and to voluntary professional standards and self-regulatory systems of the press in multicultural environments.

The third session will deal with administrative obstacles that the independent press or individual journalists face in some pS. The OSCE pS have adopted strong commitments that require their governments to provide a secure working environment for the pluralistic media, including an unhindered access to political events and conflict areas.

Day 1

15.00 – 16.00 Opening Session

16.00 – 18.00 Working Session 1: Access to Information

The OSCE pS committed themselves to facilitate access to information as early as 1986.¹⁵

¹³ Relevant OSCE commitments include the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE; the 1996 Lisbon Summit Declaration; the 1990 Copenhagen Document

¹⁴ In accordance with the Chair's perception paper, CIO.GAL/38/06

¹⁵ The concluding document of the CSCE Vienna Follow-up Meeting in 1986 states that the participating States will facilitate "freer and wider dissemination of information of all kinds", "they

Access to information is vital for genuine freedom of the media and the democratic functioning of a state. It enables societies and journalists to expect and, if needed, demand information from the governments and state institutions, thus guaranteeing transparency and accountability.

Additionally, the public's right to information may include the disclosure of classified data when it facilitates investigative journalism and allows the public to hold government officials accountable.

Several categories of practical legislation shape access to information: publications acts, information duties as part of the rules of proceedings of state institutions, governmental information services, protection of sources laws for journalists, 'whistleblower' protection laws for persons who reveal confidential information for the sake of preventing harm to the public, etc. There is also a legitimate need for state and official secrets acts to regulate how to classify information and how to protect vital national interests.

Protection of sources laws restrict governments and judicial systems from obliging journalists to reveal their sources. Such laws typically prohibit governments or courts from imposing sanctions, such as imprisonment or fines, on journalists except in very specific cases. These laws enable journalists to work with confidential sources who deliver information of public importance, including on controversial issues such as public procurement or corruption.

Most OSCE pS have adopted state and official secrets acts that prohibit the unauthorized disclosure of governmental information. Ideally, these laws should cover only national security-related information. In some countries, however, they protect nearly all official information, thus preventing the public from being informed about governmental actions, and fostering the potential for abuse of power due to lack of transparency and accountability.

In a number of participating States, penal codes still contain provisions that punish not only the official operatives who broke their oath by leaking classified information, but penalise citizens, including journalists, in cases of unauthorised holding or distribution of governmental information. Liability for dissemination of unauthorised information - with some exceptions like national security data - should lie solely with the officials who were obliged to keep the secrets.

Issues that may be discussed in connection with this topic include:

- The benefits of free access to information (improved civil society involvement in decision-making, transparent governance, successful fight against corruption, and, as a result, increased public trust in governments)
- How should violations of OSCE commitments on access to information be dealt with?
- How should protection of sources laws be constructed?

will ensure that individuals can freely choose their sources of information", and "will allow individuals, institutions and organisations... to obtain, possess, reproduce and distribute information material of all kinds. To this end they will remove any restrictions inconsistent with the above mentioned obligations and commitments."

- What forms of protection have proven useful? Best practices?
- Why are citizens and journalists punished for publishing classified information while the state agents who actually disclosed the information are not?

Day 2

09.00 – 12.00 Working Session 2 – Freedom of Opinion and Expression: The role of voluntary professional standards in facilitating mutual respect and understanding.

This session will feature several high-profile media practitioners from the OSCE area, including the Mediterranean partners.

These renowned speakers will be asked to help answer questions on media freedom and journalistic ethics in multicultural environments.

The independence and pluralism of the media is a fundamental principle that has been enshrined in international law and OSCE commitments. Nevertheless, after several examples of inter-cultural tensions in the wake of secular artistic depictions of religious subjects, suggestions were made to review legislative measures to regulate hate speech in the media.

Instead, the implementation of voluntary professional standards is a non-governmental means of encouraging the media to draw lessons from crises, respect professional standards, including respect for cultural sensitivities, and to thereby improve the contribution of the media to social cohesion while preserving its diversity and editorial freedom.

During this session the culturally different views on artistic expressions will also be debated. The role of images in general and of cartoons in particular will be discussed.

Issues that may be discussed in connection with this topic include:

- What should be the relationship between freedom, responsibility, and quality of the press?
- How can we raise awareness among journalists about religious and cultural sensitivities and diversity within these groups? How can we simultaneously preserve freedom of the press and respect for cultural sensitivities?
- Should the OSCE support the implementation of voluntary professional standards, which can help increase the professionalism and the inter-cultural knowledge among journalists? If so, what is the best way to provide such support, for instance through training of journalists?
- How can voluntary professional standards be formed to allow a diversity of voices and perspectives, including a gender perspective? What efforts could be deployed towards increased cooperation between journalists from different cultural backgrounds, with a view to enhance awareness and mutual understanding?
- What is the role of visual depictions or artistic expressions in the global media? To what extent should editors take cultural sensitivities into account when deciding what material to print?

12.00 – 14.00 Lunch

14.00 – 16.00 Working Session 3: Protection of Journalists: Administrative Measures

The 1990 Copenhagen Document confirmed that the pS will ensure that no legal or administrative obstacles will stand in the way of unimpeded access to the media on a non-discriminatory basis¹⁶. Further, the OSCE pS in the 1991 Moscow Document committed themselves to provide an adequate legislative framework that protects the rights of journalists. The pS promised that they “will take no measures aimed at barring journalists from the legitimate exercise of their profession¹⁷”.

As with all industries, the media industry is subject to regulation that allows for its normal functioning. The OSCE commitments recognize the need for an environment whereby all journalists can carry out their work without fear of reprisal. Nevertheless, many journalists, editors and publishers are subjected to administrative harassment, or defamation and libel charges.

RFOM recently observed a worrying trend: additional administrative mechanisms have been adopted in a number of OSCE pS, resulting in unnecessary procedural restrictions to the free functioning of the media. Those measures include, among others, excessive licensing or registration procedures and accreditation difficulties. Such discriminatory barriers contravene OSCE commitments. In order to remove them from legislation or bureaucratic practice in the OSCE region, a discussion of the tendencies and trends is required. In addition, proposals should be made for amendments to existing regulations that govern the legal administration of the media.

Issues that may be discussed in connection with this topic include:

- What options do OSCE pS have to register media for statistical, fiscal or anti-trust purposes without limiting their editorial or business freedom?
- What are the legitimate functions of accreditation of journalists, and how can it be assured that this procedure remains a help to freedom of reporting?
- Does existing legislation provide adequate legal and administrative protection for freedom of opinion and expression? How is this legislation enforced in practice?
- Does existing legislation support pluralism in the media?
- What are the main legal and administrative obstacles faced by the media in the OSCE region?
- Are state-owned and independent media outlets impacted by these obstacles on an equal basis?

16.00 – 16.30 **Break**

16.30 - 17.30 **Closing Session**

¹⁶ 1990 Copenhagen Document, paragraph 7.8: “To ensure the will of the people serves as the basis of the authority of government, the participating States will provide that no legal or administrative obstacles stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”

¹⁷ 1991 Moscow Document, paragraph 28.9: “They will, in conformity with international standards regarding freedom of expression, take no measures aimed at barring journalists from the legitimate exercise of their profession, other than those strictly required by the exigencies of the situation.”

ANNEX 3: KEYNOTE SPEECH BY AGNES CALLAMARD

Excellencies, colleagues, ladies and gentlemen:

Many thanks to the OSCE, the Belgian Chairmanship and the OSCE Representative on Freedom of the Media, for inviting me to this important event and for giving ARTICLE 19 the privilege of addressing you and presenting some of our thoughts on the key themes that this meeting is proposing to address, namely access to information, hate speech and the protection of journalists.

Introduction

ARTICLE 19 is a human rights organization that works all over the world for the defense and promotion of freedom of expression. Our approach and interventions are based on international human rights standards, beginning with article 19 of the Universal Declaration of Human Rights (UDHR) from which we take our name, and which guarantees the right to freedom of expression and the right to seek, receive and impart information and ideas. As a human rights organization, we also recognize that human rights are universal, meaning that rights apply to everyone whoever or wherever that person is; inalienable, in that they precede state authority and are based on peoples' humanity; and indivisible in that all rights are of equal importance.

In practice, ARTICLE 19 unique mandate has two main implications. The first is that we consider freedom of expression as both a fundamental right in its own regard as well as a crucial safeguard for the exercise of all other rights and a critical underpinning of democracy. The full enjoyment of the right to freedom of expression is central to achieving individual freedoms and developing democracy, and plays a critical role in tackling the underlying causes of poverty. It makes electoral democracy meaningful and builds public trust in the administration. Access to information strengthens mechanisms to hold governments accountable for their promises, obligations and actions. It not only increases the knowledge base and participation within a society but can also secure external checks on state accountability, and thus prevent corruption that thrives on secrecy and closed environments.

The second implication is that ARTICLE 19 also recognizes that the right to freedom of expression is not absolute and that under very specific circumstances, the exercise of this right may be balanced with other rights or circumstances. Under international human rights law, the right to freedom of expression may be restricted in order to protect, amongst others, ***the rights of others, public order, and national security*** if it is "necessary in a democratic society" to do so and it is done by law. This formulation is found in both the UN Covenant on Civil and Political Rights and in the European Convention on Human Rights.

The European Court establishes a strict three-part test for the restriction of freedom of expression, and for a restriction to be legitimate, all three parts of the test must be met:

- (i) a restriction must indeed pursue the legitimate aim that it claims to pursue;
- (ii) the restriction must be imposed in a democratic framework (so, either by parliament or pursuant to powers granted by parliament); and
- (iii) the restriction must be "necessary in a democratic society". The word "necessary" must be taken quite literally and means that a restriction must not be merely "useful" or "reasonable".

Exactly what measures States impose to restrict freedom of expression may vary, but the main parameter is that whatever they do has to be "**necessary in a democratic society**". This really is crucial. States are not under an international obligation to restrict freedom of expression on the grounds listed above, but if they do so, they must meet the three part test.

International law provides also for narrowly drawn limitations on the right to freedom of expression under article 20 of the ICCPR which provide:

- (1) *Any propaganda for war shall be prohibited by law.*
- (2) *Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

This is the only duty that States are under in the context of restricting freedom of expression.

1 - National security and freedom of the press

It is universally accepted that certain restrictions on freedom of expression are warranted to protect national security interests. A State can hardly allow its citizens to divulge information about its troop movements during an active conflict, to give just one obvious example.

At the same time, the historic abuse of restrictions on freedom of expression and information in the name of national security has been, and remains, one of the most serious obstacles with respect to freedom of expression around the world. These problems manifest themselves in two related but different areas¹⁸.

First, many States impose criminal restrictions on the making of statements which allegedly undermine national security. Cases based on these restrictions may be used to suppress political opposition and critical reporting. Second, in almost all States where freedom of information is guaranteed by law, these laws limit the right in relation to national security, often in very broad terms. Excessive secrecy in relation to national security is a widespread problem around the world, even in established democracies¹⁹.

Over recent years, and particularly in the first six months of 2006, ARTICLE 19 has noted with increasing concern the multiplication all over the world of restrictions on freedom of expression, or attempted restrictions, justified on the grounds of national security. These restrictions have included: the development of anti-terrorist laws, which are too often vague and overly broad, leaving them open to interpretation and potential abuse²⁰; the controversy surrounding the Abu Ghraib and Basra photos; the use of Official Secrets Acts to deny access to publicly held information, including information of vital public interest, such as whether or not Al Jazeera was considered

¹⁸ Toby Mendel, "National Security vs. Openness: An Overview and Status Report on the Johannesburg Principles" in National Security and Open Government: Striking the Right Balance, Syracuse: Campbell Public Affairs Institute, 2003, pp.1-32

¹⁹ *Ibid*, p.5.

²⁰ See for instance: ARTICLE 19 analysis of: Russia: anti-terrorism amendments; Latvia: prosecution of Aleksanders Gilmans; Bahrain: Gathering Codes (with Amnesty International); United Kingdom: submission on terror legislation to the ICJ; Australia: review of newly enacted sedition laws; etc. <http://www.article19.org/publications/global-issues/security-agendas.html>

as a potential military target during the recent Iraq war; etc. All of these situations have one thing in common: the desire to bury or silence controversial voices that are deemed to pose a *potential* threat to our security. ARTICLE 19 has carried out detailed analyses of laws and specific cases which highlight a broad pattern of excessive restrictions.

Let me make a strong disclaimer: there is no doubt that the individuals and groups behind the continuing sectarian attacks in Iraq, 9/11 in New York, 7/7 in London, Beslan, have acted in violation of, and with disregard, for human rights and humanitarian law; the rules which are grounded in the recognition of our common humanity. But do actions and policies by governments that further disregard, erode and ultimately abuse those very same rules – rules that until just a few months ago were held as inviolable by this and other governments – represent an appropriate response?

My answer would be no.

In 1995, ARTICLE 19 and the Centre for Applied Legal Studies (CALs) at the University of Witwatersrand, South Africa, jointly convened a meeting of some 36 leading experts from every region of the world to discuss this issue. After intensive debate, the group adopted the **Johannesburg Principles**, setting out standards on the extent to which governments may legitimately withhold information from the public and prohibit expression for reasons of national security²¹.

The Johannesburg Principles comprise 25 principles divided into four sections: General Principles, Restrictions on Freedom of Expression, Restrictions on Freedom of Information and Rule of Law and Other Matters. What follows is an overview of some of these principles:

A narrow definition of a legitimate national security interest is provided in Principle 2, which draws its inspiration from The Siracusa Principles on the *Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*.²³ This provides that a restriction is not legitimate unless its purpose and effect is to “protect a country’s existence or its territorial integrity against the use or threat of force, or its capacity to respond to the use or threat of force” from either an internal or an external threat.

Principle 2 goes on to elaborate a number of illegitimate grounds for claiming a national security interest, such as protecting the government from embarrassment or entrenching a particular ideology. These are clearly not national security interests but, at the same time, countries around the world fail to respect this Principle.

The key test for restrictions on freedom of expression in the name of national security is set out in Principle 6, which subject to other principles, prohibits restrictions on expression unless:

- the expression is intended to incite imminent violence;
- it is likely to incite such violence; and

²¹ ARTICLE 19, the Johannesburg Principles: Principles on National Security, Freedom of Expression, and Access to Information, December 1996

- there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.

At the root of this principle are two central ideas. First, there is a difference between beliefs and actions and, in turn, between *inciting* beliefs and *inciting* actions. It may be noted that this rule applies only in the context of national security.

Principles 7-9 set out a number of specific examples of expression that shall not be considered a threat to national security. These are, by-and- large, uncontroversial, including items such as advocating change of government policy, criticizing the State or government, objecting to military service, transmitting information about a banned organisation, or using minority languages.

As with the second part of Principle 2, however, all of these restrictions have been applied, purportedly to protect national security, and many countries continue to apply them.

Recommendations:

To the extent that the Johannesburg Principles offer the closest possible international understanding of national security and freedom of expression, ARTICLE 19 wishes to take the opportunity provided by this conference to call upon government officials, the media and civil society to promote understanding and implementation of the principles, and more generally to raise awareness of the limited scope of restrictions that may be imposed upon freedom of expression, press freedom and access to information in the interest of national security.

In addition:

Anti-terror legislations:

- Anti-terror laws and the legitimate objective of protecting the public from terrorism cannot justify illegitimate restrictions on freedom of expression or access to information.
 - In most countries, legitimate prohibitions on incitement to violence are already covered under existing provisions, calling into question the reasons for enacting new laws. These are often characterised by vague and overly broad provisions which leave them open to interpretation and potential abuse, including censorship or in worse cases, the closure of media outlets.
 - The most likely effect of such laws is the further marginalization of communities that already feel under threat.
 - A democracy needs vigorous debate on all matters of public interest in order to survive and progress. Suicide bombing is a despicable tactic; but in order to begin putting in place truly effective anti-terror measures, we need to understand its causes; and to understand its causes, we need debate, and we need to hear a multitude of voices, including those that express a deep sense of injustice and anger.

Censorship of the Media:

- Censorship of the Media or pressure on the Media by governments or individual government officials to refrain from publishing information that has

a clear public interest dimension (for example, an interview with Taliban commanders) cannot be considered a legitimate reason to restrict freedom of expression. The media is not responsible for difficult or ill-fated foreign or domestic policies. By providing information on all sides to a conflict, or reporting breaches of international humanitarian law, the media performs its duty. Universal human rights values demands that we celebrate a diligent media that brings to public attention issues of significant, even if unpopular, public interest.

Access to information:

- Restrictions to nationally-held information on the grounds of national security must be narrowly defined and implemented.
- Public authorities and their staff bear sole responsibility for protecting the confidentiality of legitimately secret information under their control. Other individuals, including journalists and civil society representatives, should never be subject to liability for publishing or further disseminating this information, regardless of whether or not it has been leaked to them, unless they committed fraud or another crime to obtain the information.
- Criminal law provisions that do not restrict liability for the dissemination of State secrets to those who are officially entitled to handle those secrets should be repealed or amended.
- Anyone disclosing classified information should benefit from a **public interest defence** whereby, even if disclosure of the information would cause harm to a protected interest, no liability should ensue if the benefits of disclosure outweigh the harm. Although we recognise that civil servants may legitimately be placed under obligations of secrecy, these should be limited by their obligation to serve the overall public interest.

2 - Hate Speech

The second topic that this conference purports to address is one that has also been at the centre of the controversies and violence that have characterised the last six months. The September publication of cartoons depicting the Prophet Mohammed in Denmark resulted in protests in the first half of 2006, which escalated into violent demonstrations in many parts of the world, deaths, the boycott of Danish goods, arrests of editors and journalists in the Middle East, etc²².

These events highlighted a shared sense and experience of insecurity. For some, insecurity was linked to the fear that their societies were about to lose values that were deeply held, such as individual freedoms and freedom of expression. For others, insecurity exploded out of outrage over the perceived lack of respect for religious beliefs. The background to this event was (and is) one of global insecurity: “terrorism” and the war on terror, the war in Iraq, the Israel-Palestine conflict, and images of Western soldiers on Iraqi soil, Israeli tanks in Palestinian cities, escalation of intolerance and discrimination, etc.

Another striking feature of these events has been the remarkable absence of sensible dialogue. Instead, there have been a series of accusations and counter-accusations, variously defending the absolute right to free speech and calling for apologies and

²² ARTICLE 19, Newsletter, Winter 2005/2006

ensorship in the name of religion. In particular, a number of voices were heard across the world calling for additional legislation or enforcement of existing legislation regarding blasphemy, as required in a multi-cultural environment.

ARTICLE 19's position is that offensive or blasphemous statements do not constitute the appropriate benchmark for restrictions to freedom of expression.

Fundamental to the protection of human rights are the principles which recognize the inherent dignity and equality of all human beings, and the obligation of all Member States of the United Nations to take measures to promote "universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion."²³ There is no denying that certain forms of expression can threaten the dignity of targeted individuals and create an environment in which the enjoyment of equality is not possible. For ARTICLE 19, such a risk may be provoked by expression that is **hateful** – although not by those that are blasphemous or offensive.

ARTICLE 19 recognizes that reasonable restrictions on freedom of expression may be necessary or legitimate to protect the right to equality, the right to mental and physical integrity, the right to be free from discrimination, and ultimately the right to life, as hate speeches have too often been associated with ethnic cleansing, wars, and genocide.

From this standpoint, hate speech regulations may constitute a legitimate and potentially necessary restriction to freedom of expression. Yet, they cannot constitute the sole or indeed central response to prejudice, racism, and discrimination. The appropriate answer to hate speech is not just more speech – but also policies and action which tackle the causes of inequality in all its forms.

Recommendations²⁴:

ARTICLE 19 believes that an effective response to expression that vilifies others requires a sustained commitment on the part of governments to promote equality of opportunity, to protect and promote linguistic, ethnic, cultural and religious rights, and to implement public education programmes about tolerance and pluralism.

In addition:

Media self-regulation

- Media self-regulation constitutes the best possible approach to ensure respect for freedom of expression, and balanced and impartial reporting.
- Independent media organisations, media enterprises and media workers have a moral and social obligation to make a positive contribution to the fight against racism, discrimination, xenophobia and intolerance, to combat intolerance and to ensure open public debate about matters of public concern. As far as Public Service Broadcasting is concerned, ARTICLE 19 is of the view that they have a legal obligation to play such a function.

²³ Article 55(c) of the Charter of the United Nations. See also Article 55 of the Charter.

²⁴ Based on Agnes Callamard, "Freedom of speech and offence: why blasphemy laws are not the appropriate response", in **Equal Voices**, the magazine of the European Monitoring Centre on Racism and Xenophobia (EUMC), Issue 18, June 2006

- There are many ways in which media can make a contribution to the fight against intolerance, including by:
 - designing and delivering media training programmes which promote a better understanding of issues relating to racism and discrimination, and which foster a sense of the moral and social obligations of the media to promote tolerance and knowledge of the practical means by which this may be done;
 - ensuring that effective ethical and self-regulatory codes of conduct prohibit the use of prejudicial or derogatory stereotypes, and unnecessary references to race, religion and related attributes;
 - taking measures to ensure that their workforce is diverse and reasonably representative of society as a whole;
 - taking care to report factually and in a sensitive manner on acts of racism or discrimination, while at the same time ensuring that they are brought to the attention of the public;
 - ensuring that reporting in relation to specific communities promotes a better understanding of difference and at the same time reflects the perspectives of those communities and gives members of those communities a chance to be heard;
 - ensuring that a number of voices within communities are heard rather than representing communities as a monolithic bloc – communities themselves may practice censorship;
 - promoting a culture of tolerance and a better understanding of the evils of racism and discrimination.²⁵

Carefully designed hate speech regulations

- Any so-called hate speech restriction on freedom of expression should be carefully designed to promote equality and protect against discrimination and, as with all such restrictions, should meet the three-part test set out in Article 19 of the ICCPR, according to which an interference with freedom of expression is only legitimate if:
 - it is provided by law;
 - it pursues a legitimate aim; and
 - it is “necessary in a democratic society”.
- Specifically, any restriction should conform to the following:
 - it should be clearly and narrowly defined;
 - it should be applied by a body which is independent of political, commercial or other unwarranted influences, and in a manner which is neither arbitrary nor discriminatory, and which is subject to adequate safeguards against abuse, including the right of access to an independent court or tribunal;
 - no one should be penalised for statements which are true;
 - no one should be criminally penalised for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;

²⁵ This list is based on the 2001 Joint Statement on Racism and Media by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression.

- the right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;
- care should therefore be taken to apply the least intrusive and restrictive measures, in recognition of the fact that there are various available measures some of which exert less of a chilling effect on freedom of expression than others; and
- any imposition of sanctions should be in strict conformity with the principle of proportionality and criminal sanctions, in particular imprisonment, should be applied only as a last resort.²⁶
- Restrictions must be formulated in a way that makes clear that its sole purpose is to protect individuals holding specific beliefs or opinions, whether of a religious nature or not,²⁷ from hostility, discrimination or violence, rather than to protect belief systems, religions, or institutions as such from criticism. The right to freedom of expression implies that it should be possible to scrutinise, openly debate, and criticise, even harshly and unreasonably,²⁸ belief systems, opinions, and institutions, including religious ones,²⁹ as long as this does not advocate hatred which incites to hostility, discrimination or violence against an individual.

Conclusion: Freedom of expression – an essential component to democracy and human security

The restrictive provisions that have mushroomed over the last year have a ‘chilling effect’ on independent voices and the media, which adversely restricts the free flow of information and the public’s right to know.

This trend threatens to negate decades of demonstrations and arguments by free speech advocates and hard-won court judgments affirming:

- That freedom of expression is both a fundamental right in its own regard as well as a crucial safeguard for the exercise of all other rights and a critical underpinning of democracy.
- That public officials should tolerate a *higher degree* of criticism than ordinary citizens, and that defamation laws that grant public figures special protection are “liable to hamper the press in performing its task as purveyor of information and public watchdog”. (European Court of Human Rights)

²⁶ This list draws on the 2001 Joint Statement of the specialised mandates on freedom of expression, note.

²⁷ Religion as used here is to be understood broadly and does not dependent on formal State recognition.

²⁸ The right to freedom of expression includes the right to make statements that ‘offend, shock or disturb’. See *Handyside v. United Kingdom*, 7 December 1976, Application No. 5493/72, 1 EHRR 737, para. 49 (European Court of Human Rights).

²⁹ ARTICLE 19 believes that blasphemy as a criminal offence should be abolished. Tolerance, understanding, acceptance and respect for the diversity of faiths and beliefs cannot be secured by the threat of criminal prosecution and punishment. This is becoming ever more relevant as our societies become more and more diverse.

- That the media should be able to report on matters in the public interest including the exposure of wrongdoing by the authorities because this enhances the accountability of public officials through greater scrutiny and information on their actions.
- That the pluralism, tolerance and broadmindedness without which there is no ‘democratic society’ demands precisely the protection of controversial, offensive, shocking or disturbing statements.
- That this protection is particularly important, crucial even, in current times when our society is at war with itself.

The restriction of freedom of expression or access to information in the name of national security is an extremely short-sighted view. In fact, denial of information is far more likely to result in social tensions and conflicts.

Most of the traditional arguments in favor of freedom of expression and openness apply with at least equal force where national security is concerned. These include³⁰:

(i) Freedom of Expression (FoE) strengthens the democratic framework

While FoE, including freedom of information, is not a sufficient condition for democratic reform, it is arguably a necessary one. It forms a central pillar of the democratic framework through which all rights are promoted and protected, and the exercise of full citizenship is guaranteed. A robust democratic framework helps create the stability necessary for society to develop in a peaceful and relatively prosperous manner. The United Nations has argued that by promoting the relevance of politics as the sphere within which key decisions affecting society are taken, citizens would be persuaded that solutions to existing problems must be sought within and not outside democratic institutions.

Intelligence and security bodies play an important role in society and they must, like all public bodies, be subject to democratic accountability. In some cases, they appear not to be accountable even to elected officials. In other cases, elected officials take advantage of the secrecy surrounding these bodies to abuse their powers for political purposes. A ruling power might reasonably be expected to take measures against actions hostile to its existence but it should tolerate the expression of hostile opinions, e.g. sedition should be restricted to those who advocate the overthrow of the political order and the State.

(ii) FoE and especially freedom of information laws contribute to a reduction in corruption

FoE and access to information laws are critical tools in the fight against corruption, which allows inefficiency to thrive and distorts the potential for growth. Corruption discourages foreign investment and eats away at the budgets allocated to public procurements which enable basic infrastructure such as roads, schools and hospitals to be built. High levels of corruption both reduce the effectiveness of aid-funded projects and weaken public support for assistance in donor countries. If unbridled corruption

³⁰ Based on Bethan Grillo, *Why should governments pass freedom of information legislation*, London: ARTICLE 19, forthcoming; and Toby Mendel, *op. cit.*, 2003

continues to infect a society or political system, it may eventually lead to social unrest due to the division it creates between those who have easy access to goods and services and those who remain disadvantaged. If a public administration must publish regular accounts, including the particulars of specific deals that have been negotiated, if companies are forced to set out their side of the arrangement, and business is agreed with the expectation that the details will one day come to light, the margin for corrupt activity is dramatically reduced. Sunshine is the best disinfectant.

Defense industries absorb enormous amounts of public money and, in many countries, spend more discretionary funds through contractual procedures than most, if not all, other public sectors. This is a natural breeding ground for corruption and it is only through open public oversight that this can be contained. Public oversight is also crucial to ensure sensible policy- and decision-making, generally, but also specifically including in relation to national security: “The problem with the ‘national security state’ is not so much that it violates ... rights, although it sometimes does just that, but that it can lead to the repetition of irrational decisions³¹.”

(iii) FoE helps form a robust, stable government with broad public support

An open information regime contributes to an arena in which politics can unfold in an unfettered and constructive manner. Without freedom of information, secretive governments foster secretive societies in which rumours multiply and conspiracy theories abound. Where there is an information vacuum, the media and public often fill the space with sensationalist stories and discussions of the worst case scenario. Secrecy can give rise to conflict as people become frustrated with their leaders or act upon hearsay. By releasing information into the public realm and inviting public scrutiny of its actions, government is actually making an investment in its political support base. This can pay dividends at election time. But most importantly, it can support peaceful processes and democratic development.

(iv) Freedom of the press: an essential component of human security

The key concept and aspiration that should be driving national and global leadership in the face of global insecurity must be that of human security – it encapsulates national security but does not limit itself to it. The UNDP’s 1994 Human Development Report is considered a milestone publication in the field of Human Security. It states that human security consists of two basic pillars: the *freedom from want* and the *freedom from fear*. This means the absence of hunger and illness as well as of violence and war. The concept of human security marries the traditionally separate fields of development studies and national security and links the traditionally opposing principles of human rights and sovereignty³². A large number of governmental and non-governmental actors had thrown their weight behind this formulation, as highlighted by the appointment in 2001 of a panel of high-level experts, mandated by the international community to focus on a number of distinct but interrelated issues concerning conflict and poverty: protecting people in conflict and post-conflict situations, shielding people forced to move, overcoming economic insecurities, guaranteeing essential health care, and ensuring universal education. The Commission's conclusions and report, launched in 2003, proposed a new security framework that centers directly and specifically on people.

³¹ Paul Chevigny, “Information, the Executive and the Politics of Information” in Shetreet, Simon, ed., *Free Speech and National Security* (Dordrecht: Martinus Nijhoff, 1990).

³² Wikipedia, the free encyclopedia

In its final report, the Commission presented the following approach which could constitute a far better and sounder basis for tackling the challenges that have continued or developed since 2003.

“Human security means protecting vital freedoms. It means protecting people from critical and pervasive threats and situations, building on their strengths and aspirations. It also means creating systems that give people the building blocks of survival, dignity and livelihood. Human security connects different types of freedoms - freedom from want, freedom from fear and freedom to take action on one's own behalf. To do this, it offers two general strategies: protection and empowerment. Protection shields people from dangers. It requires concerted effort to develop norms, processes and institutions that systematically address insecurities. Empowerment enables people to develop their potential and become full participants in decision-making. Protection and empowerment are mutually reinforcing, and both are required in most situations.

Human security complements state security, furthers human development and enhances human rights. It complements state security by being people-centered and addressing insecurities that have not been considered as state security threats. By looking at "downside risks", it broadens the human development focus beyond "growth with equity". Respecting human rights are at the core of protecting human security.

Promoting democratic principles is a step toward attaining human security and development. It enables people to participate in governance and make their voices heard. This requires building strong institutions, establishing the rule of law and empowering people³³”

One of the Human Security Commission Recommendations focused on “Knowledge, skills and values - for human security”. It especially urged the international community to recognize the role played by the Media in providing in life skills and public issue, giving people voice in public debates, and enabling them to actively exercise their rights and fulfill their responsibility³⁴.

Unduly restricting cherished rights is precisely the wrong response to terrorism. It is to abdicate rather than defend universal values in the face of an attack. It is adding another scar to our common humanity.

History is replete with examples of government efforts to suppress human rights and speech on the grounds that to do so is necessary for society's survival. In retrospect, these efforts almost always appear panicky, disingenuous or dangerous. Let us not sink deeper into that trap.

³³ Commission on Human Security, Report, Geneva: 2003 www.humansecurity-chs.org/finalreport/Outlines/outline.pdf

³⁴ Ibid

ANNEX 4: INTRODUCTORY SPEECHES TO WORKING SESSIONS

SESSION 1: Access to Information

Mr. David Banisar, International legal expert, consultant for RFOM's Access to Information Project, London

(From PPT Presentation)

Focus of RFOM Project on Access to Information

- Ability of media to obtain and use information
- Subject areas
- National law and regulations on access to information
- Regulatory and criminal laws on official or state secrets
- Protection of publication in the public interest
- Laws or rules on confidentiality of journalists sources
- Questionnaire to national delegations, due 1 October 2006
- Final Report, Matrix and Recommendations, out in December 2006

Access to Information

- Constitutional Right
- Access to Information Law
- Media Law

Access to Information Issues

- Adequacy of laws
- Adequacy of implementation
- Response times
- Exemptions and Public interest tests
- Relationships with secrets and other laws
- Official Secrets
- Types of laws
- Protection of Classified Information Acts
- Official Secrets Act/Criminal Codes
- Special acts on intelligence archives
- Secrets Issues
- Scope of laws
- Applicability to media
- Public interest in publication
- Recent cases: Denmark, UK, Canada, Switzerland, Romania, Hungary

Journalists Sources

- Right of journalists to not disclose sources of information
- Limits on surveillance of journalists to discover sources
- Limits on journalists to testify in trials

Journalists Sources Issues

- Effectiveness
- Coverage
- Obligation v. right

- Cases in US, Canada, France
- Surveillance of Journalists in Germany, the Netherlands
- ECHR/COE standards
- New Law in Belgium

More information

- Questionnaire available at RFOM website:
<http://www.osce.org/item/19279.html?html=1> (eng)
http://www.osce.org/documents/rfm/2006/05/19_279_ru.pdf (rus)
- Global FOI Survey: <http://www.freedominfo.org/>

Mr. Pol Deltour, Secretary General of the Belgian Union of Professional Journalists

LA PROTECTION DES SOURCES JOURNALISTIQUES EN BELGIQUE: UN MODELE QUI VAUT L'ATTENTION

Prélude : de quoi s'agit-il ?

Pour la presse il est tout simplement essentiel de pouvoir contacter toutes les personnes sources d'information – y-inclus celles qui ne veulent pas être identifiées – sans être inquiété par les autorités publiques ou par des personnes privées.

Commençons par le début: le point de départ du bon journalisme est bel et bien que le journaliste est au maximum clair sur ses sources d'information. Ceci par citer quelqu'un ouvertement, par présenter un porte-parole explicitement. Cette manière de faire garantit la fidélité de l'information.

Seulement, dans plusieurs cas une personne source d'information ne voudra pas entrer en ligne de mire en se présentant comme source d'information. Parce qu'il court trop de risques en faisant cela. Pensons à un employé qui sait bien que son entreprise est en situation de fraude ou viole la loi d'une autre façon, et qui ne veut néanmoins pas être viré. Ou pensons au policier qui a connaissance de manipulations dans son service de police mais qui ne veut pas perdre son boulot en protestant contre celles-ci. Beaucoup de personnalités du monde sportif ont connaissance de corruption ou de dopage dans leur branche, mais ne veulent jamais être connues comme délateurs de ceci. Comme il y a beaucoup d'hommes et femmes dans le monde politique qui veulent donner connaissance de concertations informelles sans être identifiés comme source d'info.

Dans tous ces cas-là, il est fondamental que les personnes sources d'information, comme les journalistes avec qui elles communiquent, peuvent se voir, se parler et se concerter librement. Ce qui veut dire: de façon confidentielle. Ou encore: sans que les autorités publiques – autant les forces administratives que la justice – peuvent en prendre connaissance, et ceci non seulement sur le plan du contenu des communications mais aussi de l'existence de ces communications telles quelles.

Ce n'est pas nous qui le disons, c'est la Cour Européenne des Droits de l'Homme à Strasbourg qui l'a dit, même à plusieurs reprises. La protection des sources journalistiques est, pour la Cour, une « pierre angulaire de la liberté d'information ».

Depuis le printemps de 2005, la législation belge, elle aussi, consacre le secret des sources journalistiques comme un principe fondamental dans les relations presse/autorités publiques dans le pays.

Un peu d'histoire

En Belgique on a connu depuis 1977 des incidents plus ou moins graves entre la justice et la presse sur le point des sources confidentielles que la justice voulait dévoiler.

Remarque: beaucoup de ces incidents portaient notamment sur des réalisations journalistiques dans le secteur de la justice (le journalisme judiciaire). Comme si le judiciaire a surtout des problèmes avec des informations informelles sur son propre fonctionnement.

La relation droit / déontologie

En réglant la matière comme il l'a fait, le droit belge est en parfaite harmonie avec la déontologie des journalistes.

En effet, les codes déontologiques de la presse prévoient depuis longtemps que les journalistes ont l'obligation de taire leurs sources confidentielles. Avec la loi du 7 avril 2005, les journalistes belges sont maintenant en état de forcer leur obligation déontologique vis-à-vis des ordres publiques.

Qui peut invoquer la loi ?

La loi originaire prévoyait dans son article 2 comme champ d'application *ratione personae*: tous les journalistes qui contribuent directement à la collecte, la rédaction, la production ou la diffusion d'informations par le biais d'un média au profit du public – et ceci de façon professionnelle, ce qui veut dire régulièrement et salarié.

Maintenant, dû à un arrêt de la Cour d'Arbitrage du 7 juin 2006, vraiment tous ceux qui sont actifs comme journaliste, même de façon bénévole et occasionnelle, sont protégés. Selon la Cour d'Arbitrage la restriction qui était faite dans la loi originaire constituait une discrimination.

Sont également protégés: les entreprises de presse au sein desquelles travaillent des journalistes protégés, et tous les collaborateurs de rédaction, jusqu'au chauffeur et téléphoniste ou réceptionniste.

Par qui avez-vous obtenu cette information ?

Le cas d'école: le journaliste qui a publié une information venant d'une source anonyme est interpellé par la justice ou la police – souvent à l'initiative d'un particulier – et est demandé qui est sa source d'information.

Article 3: le journaliste a le droit de taire ses sources d'information.

La protection s'éteint à quoi encore ?

Article 5: toutes les mesures d'information ou d'instruction policière ou judiciaire. Pensons aux fouilles, perquisitions, saisies, écoutes téléphoniques, enregistrements. Depuis une loi récente, qui est approuvée par le Parlement en avril dernier mais pas encore ratifiée par le chef d'Etat, aussi les méthodes particulières de recherche tombent sous le champ d'application *ratione materiae*. Une loi récente sur les MPR, approuvée dans le cadre de la lutte contre le terrorisme, avait créée des doutes là dessus, mais grâce à une loi de 'réparation' la situation est éclaircie: les sources journalistiques sont en principe protégées contre toute mesure d'information ou d'instruction.

La protection est-elle complète ?

Non.

Mais la justice doit satisfaire à des conditions très strictes pour rompre le secret des sources journalistiques. Voyez article 4.

Seulement un juge (d'instruction) peut prendre l'initiative (pas un policier et même pas un magistrat du parquet)

L'information sollicitée est de nature à prévenir la commission d'infractions constituant une menace grave pour l'intégrité physique d'une ou de plusieurs personnes, en ce compris les infractions visées à l'article 137 du Code Pénal (qui pénalise le terrorisme)

L'information demandée (a) revête une importance cruciale pour la prévention de la commission desdits infractions, et (b) ne peut être obtenue d'aucune autre manière.

Ceci n'empêche que la protection est totale dans le cas, par exemple, que quelqu'un se sent lésé par une diffamation. Ou encore dans le cas où la justice a l'ambition de sanctionner, après-coup, un acte de terrorisme qui s'est déroulé.

Quid si la justice ne considère le journaliste comme témoin mais le vise directement comme suspect ou même inculpé ?

C'était un des points faibles dans le régime belge de protection des sources journalistiques avant la loi.

Lorsque un journaliste refusait de relever ses sources, la justice n'a souvent hésité à le poursuivre pour recel de documents (ou même d'information idéale) ou pour complicité à la violation du secret professionnel.

Ces deux portes d'évasion et de contournement de la protection sont désormais fermées. Voyez les articles 6 et 7 de la loi. L'article 6 concerne le recel, l'article 7 la complicité à la violation du secret professionnel.

Tout cela ne porte-t-il le journaliste pas au-dessus de toute loi et de toute obligation ?
Les journalistes comme desperados ?

Pas du tout.

Ce n'est pas parce que la loi protège fermement – il est vrai – les sources confidentielles des journalistes, que ceux-ci sont en mesure de publier quoi qu'il soit. Autrement dit: la protection des sources journalistiques laisse la responsabilité du journaliste – qu'elle soit pénale ou civile – intacte.

Vérifier et revérifier l'information restent donc le *conditio sine qua non* du journalisme.

Et ceci d'autant plus dans le cas où l'on travaille avec des sources désireuses de rester anonymes.

La loi a-t-elle produit des effets positifs dans l'année passée ?

Oui et non.

Oui, parce qu'il semble qu'il y a de moins en moins d'incidents entre la justice et la presse sur le plan des sources d'information.

Lacunes persistantes

Champ d'application *ratione materiae*

Manque de sanction dans le cas de violation de la loi

Communication de la loi auprès des magistrats et policiers

Une loi même parfaite résoudra-t-elle tout ?

Non, une loi parfaite sur la protection des sources journalistiques n'est pas la seule garantie d'un journalisme de qualité et d'une information et communication libres qui constituent elles-mêmes des éléments constitutifs d'une vraie démocratie.

Pour réaliser ceci, il rest beaucoup plus à faire:

- une bonne accessibilité de toute information officielle (dans les secteurs législatif, administratif, judiciaire mais aussi privé)
- pas de restrictions trop contraignantes en ce qui concerne la responsabilité de la presse (le journalisme n'est pas une science ni une activité judiciaire)
- mais aussi: des rédactions assez équipées, des journalistes bien rémunérés (les salariés comme les indépendants)
- des statuts de rédaction formelles qui protègent les rédactions contre des pressions politiques ou commerciales des propriétaires et gérants de leurs entreprises de presse.

SESSION 2: Freedom of Opinion and Expression: The role of voluntary professional standards in facilitating mutual respect and understanding

Mr. Johann P. Fritz, Director of International Press Institute, Vienna

The International Press Institute (IPI), a global network of editors and leading journalists from print media, broadcasting and news agencies in about 120 countries, has since its foundation in 1950, been involved in the development, promotion and defence of press freedom worldwide. And, indeed, professional codes of journalism have always been one of the basic issues with which we are concerned.

Since this meeting deals with the study and interpretation of principles of journalistic professionalism, press codes, various “Cannons of Journalism”, self regulatory media institutions, and so on, it is necessary to emphasize the general deterioration of the international rules for freedom of opinion and expression, as originally defined in the UN Declaration of Human Rights of 1948.

Article 19 worded these rights quite simply and clearly: However since then, all further conventions or declarations such as the European Convention on Human Rights (ECHR) in 1950, the International Covenant on Civil and Political Rights (ICCPR) in 1966, the “Recommendation on the Ethics of Journalism” adopted by the Parliamentary Assembly of the Council of Europe in 1993, various UNESCO declarations, and others, have included several rather rigid limitations on press freedom.

In addition, there have been numerous initiatives by international media organisations to regulate press ethics. Proponents of an international or global code of ethics are serious, insistent and persistent -- albeit unrealistic!

Such a code would have to be a masterpiece of generalization and abstract language, but it could not be a workable guideline for professional standards. Most journalistic organisations have therefore preferred to develop their own national or regional or sectoral codes of ethics.

So, let me try to demonstrate some basic elements with regard to that issue:

First, there is the term “Deontology” which is the theory of moral obligations. Deontological Ethics places special emphasis on the relationship between duty and the morality of human actions.

In theory, everyone has an unchanging duty to abide by some set of moral principles, and nothing else. Certain actions are either forbidden or wrong per se.

The categorical imperative of the German philosopher Immanuel Kant is the most prominent deontological theory. “Act so that the determining motive of your will may be capable of becoming a universal law for all rational beings”.

Since this however prescribes universal behaviour, it is obviously beyond the average person to comprehend. The theory is therefore fanciful thinking and impractical for real-world situations.

So, if the theories of moral obligations do not guide us towards practical solutions, let us try the theories of “ethics”. - Another component of our problems.

Ethics is that branch of philosophy whose purpose is to describe moral sentiment, as well as to establish norms for good and fair behaviour. In the context of journalism, it is the question about what is good and what is right journalistically.

There are probably too many ethical theories out there. Some theories look at ethics as being applicable to everybody, at all times, and in any situation. Others, more flexible, adaptive and less principled, consider ethics as pertinent only in certain situations or contexts and not capable of being universal.

According to Professor John Merrill, from the Missouri School of Journalism, four theories can be applied to both, the journalist’s professional or public ethics, and to his/her personal, private life.

(“Four Theories of Media Ethics”, John C Merrill, IIMC Dhenkanal, 2003)

- the monolithic ethics
- the pluralistic ethics
- the egocentric, and
- the altruistic theories

Monolithic Ethics

is rather legalistic and there is a priori ethical leadership or direction. In fact, some authorities – e.g. the state, a royal family, a military leader, a religion (in theocracies), etc. – are setting common ethical norms for the entire press. The system is specific and non-ambiguous. Media people therefore know, and do not have to argue about, whether their actions were ethical or unethical.

However, the natural tendency in a free society is for various persons and factions to have differing (albeit often similar) ethical values – and this militates against monolithic ethics

Pluralistic Ethics

is diversified and relativistic and claims that various kinds of ethical views exist alongside one another. There are various theories of right and wrong, all co-existing within a media system or within the world at large.

This position is in the mainstream of ethical theories in the free world today. The more press freedom a country enjoys, the more pluralistic its ethical system. Its ethics is a mixed bag, harder to explain, and harder to codify.

However, the relativism of earlier days is beginning to fade, since within the media codes of ethics, ethics coaches, critical reviews, press councils, ombudspersons and other controlling mechanisms have come into being. And another indication of the waning of journalistic pluralism in ethics is the rise of the concept of professionalisation.

The next theory, that of the Egocentric Ethics is centred on the ethical agent - on the "I" and not the "other" - and contends that, by and large, what is good for the person of basic character is good for all. Egocentric ethics turns the interest of the ethical agent inward, emphasizing a personal or institutional motivation. In short: what will help me or my medium, accomplish predetermined objectives. Thus the theory largely discounts the consequences of an action.

Within the Egocentric system Machiavelli formulated an obvious conflict: "private ethics" versus "public ethics". He saw that people as individuals acted differently in private, personal situations than they did in groups, crowds, or masses. They tend to shun conventional ethics as they lose their anonymity in a group or an organization. In an organization they conform, they follow; they throw out their private ethics and substitute what Machiavelli called "public ethics". In their private lives they would not, for example, kill others, but as part of an army they seem to have no hesitation to kill. (Niccoló Machiavelli: "Discorsi Sopra La Prima Deca Di Tito Livio", 1531 and "Il Principe", 1532)

Far more popular and widespread than Egocentric Ethics are Altruistic Ethics which emphasize public benefits of the ethical act, considering the interest of others rather than self-interest.

This theory is generally associated with humanism or religion and imposes a sense of public service and concern on the ethical agent. It is a "help-others" theory, obligating the journalist to public betterment. Think of others first; give little attention to yourself; help the poor, the underclass of society, etc.

So, each journalist can be placed in one of these four categories – but of course- with considerable overlapping.

The Swedish media experts, Weibull and Börjesson, (Lennart Weibull and Britt Börjesson "Svensk pressetik i teori och praktik", Svenska Journalistförbundet, 1995) argue that ethical principles are associated with a certain view of humans and society, and that loyalties are often connected to group interests.

For example: the journalist should observe the requirements of ethical rules, which demand restraint in the use of certain kinds of information. But the journalist has also a responsibility to the audience, and the existing demands by the general curiosity of the audience.

So the commercial factor becomes of importance: Is the public interested and curious about this event? What can be "sold" to the audience? .Will publication of certain stories increase the circulation, etc.? And such considerations become even more important in times of intense competition.

In consequence there are conflicting interests:

- a) Responsibility for the survival of the media business and for the job security of the employed journalists;
- b) Responsibility for the quality and reliability of the product, as well as,
- c) Responsibility for the overall social consequences of their work.

A model of how the individualistic ethic could be supplemented by an ethic that takes the commercial aspects into account was developed by the US media experts Bill Kovach and Tom Rosenstiel who compiled the elements of journalism under the following company codes:

- Journalism's first obligation is to the truth;
- Its first loyalty is to citizens;
- Its essence is a discipline of verification;
- Its practitioners must maintain an independence from those they cover;
- It must serve as an independent monitor of power;
- It must provide a forum for public criticism and compromise;
- It must strive to make the significant interesting and relevant;
- It must keep the news comprehensive and proportional; and
- Its practitioners must be allowed to exercise their personal conscience.

So, Ladies and Gentlemen, all these various aspects have to be taken into account when we try to formulate codes of professional conduct:

Codes of good journalistic practice, adopted by national Press Councils, do in principle bear the same weight than internal codes in individual media companies (just take the example of the BBC code of conduct)

But according to the Finish media experts, Sonninen & Laitila, press councils fulfil four main functions: (Source: P. Sonninen, & T. Laitila, "Press councils in Europe", University of Tampere, 1995).

First of all, Press Councils protect the rights of the public, by giving the public an opportunity to complain about unethical or bad journalism.

Secondly, Press Councils also protect the media themselves. By setting up Press Councils, journalists and publishers show to the state and governmental authorities as well as to the public, that the media are aware of their responsibilities and that no further regulation is needed.

The third function is a combination of the two already mentioned – Press Councils act as a mediator between the media and the public

Fourthly, they professionalise journalism and improve the quality by defining what is good and what bad journalism is.

Let me once again stress that the matter of self-regulation of journalists and -- related to this -- their freedom and ability to criticize, must be seen under the perspectives of the before mentioned ethical debate but also the philosophy of tolerance.

Tolerance is the term applied to the collective and individual practice of not persecuting those who may believe, behave or act in ways of which one may not approve.

It is usually applied to non-violent, consensual behaviour, often involving politics, religion, or sex. The practical rationale of "tolerance" requires that the party or group

in question be left undisturbed, physically or otherwise, and that criticism directed toward them be free of inflammatory or inciteful efforts.

In the wider sociological sense, "tolerance" carries with it the understanding that "intolerance" breeds violence and social instability. But what about the intolerant?

The philosopher John Rawls stresses in his book "A theory of Justice" that a reasonable right of self-preservation supersedes the principle of tolerance. Hence, the intolerant must be tolerated, but only insofar as they do not endanger the tolerant society and its institutions.

So, during the cartoons crisis, it was entirely appropriate for politicians to call for tolerance and calm, but we were disappointed that some politicians have chosen to frame their responses in terms of the media's responsibility without balancing such calls against the need for religious leaders and the heads of Muslim countries to do likewise.

There were calls for legal initiatives to further curb freedom of the media; for example, the attempt by the Organization of the Islamic Conference to give the new United Nations Human Rights Council the power to "prevent instances of intolerance, discrimination, incitement of hatred and violence arising from any actions against religion."

At the international level, there are already sufficient regulations of the relationship between freedom of the press and religion.

Article 20, paragraph 2, of the ICCPR states, for example: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." Incitement is however defined, by general understanding, as "a causal link between hate speech and a criminal act of violence that can be proven."

And our concerns linger on until today, when we evaluate the UN's willingness to use the word "defamation" in conjunction with religion. This could provide suitable legal cover to the real intentions of several countries which is the introduction of fresh blasphemy laws. The media would then find it increasingly difficult to criticise religion; be it certain principles, certain practices or even religious leaders

And the main issue would certainly again be the "responsibility of journalists" a phrase which has different interpretations.

In democratic countries a journalist is expected to accept "responsibility" for the content of the message, but is not required to adhere to a code of responsibility. And in many advanced societies, we witness a new sense of journalistic responsibility, in particular within the quality media.

Under a Marxist or one party regime the journalist's "responsibility" is to the state or the ruling party.

The Third World governments set forth explicit objectives for journalists such as advancing peace, opposing racism, supporting economic development, and so on. No

matter how noble these objectives, they describe normative standards of responsibility which invite government supervision, censorship and interventions.

It is therefore refreshing to hear comments from the Parliamentary Assembly of the Council of Europe like: “freedom of thought, conscience and religion also requires tolerance of criticism of religions and beliefs” or to read the resolution saying “freedom of expression should not be further restricted to meet the increased sensitivities of religious groups. The European Court of Human Rights (ECtHR) defined the essentials of Article 10 of the European Convention on Human Rights as follows: “freedom of expression is not only applicable to expressions that are favourably received or regarded as inoffensive, but also to those that may shock, offend or disturb the state or any sector of the population”

So, let me please sum up:

The media as well as the political authorities could probably agree that there is an urgent need for good governance in all countries, even in the most developed democracies. We should therefore commit ourselves to promoting good governance as a way of conducting public affairs through a participative communication process in which media plays a crucial role.

A free press is at the very centre of any democratic development and the principle that editors decide on content, is at the core of press freedom. But this right entails responsibility and respect for the internationally defined limitations. Editors, wherever they stand - local, national or international - must nowadays have global horizons.

Mr. Jihad Momani, Former Editor-in-chief of Jordanian newspaper Shihan

Dear colleagues
Ladies and Gentlemen

Nearly five months have passed since the (Cartoon's Crises) disturbed our lives during which we have faced serious threat as open minded Muslim journalists who decided to enter a taboo area using the mild freedom of expression.

At the beginning the Cartoon issue was a Media issue rather than a political or social issue. However, for different reasons the cartoons were then used in several ways in different Countries to gain political points without thinking about the dangerous Circumstances and threats which our civilization would then face in the next five months.

In my opinion the initial publishing of the controversial caricatures was an attempt to challenge freedom of expression in a wrong direction. This was a waste of our efforts as civilized people to get a message across, because things got worst when Europe had to support the Danish Jylands Posten newspaper. In principle, I believe the cartoon publication was a violation of the freedom of the press and expression and an attack on others' rights. This is why we didn't agree with this kind of freedom, and for this reason we should stand against any offensive expression in written or in draw or in any way against any religion or faith.

But why did we publish these cartoons if we knew the serious danger from the beginning? For me personally, as a Muslim journalist, the cartoon's publication became an issue in January 2006 after three months from the first publication in Denmark. After the over reactions in the Muslim world we, as professional journalists, faced a different challenge when we found ourselves in front of two choices: being a part of the protesters burning the Danish flag and boycotting Danish goods or be a journalist and act professionally. I chose to act as a journalist who also has his own political thoughts on the issue, but had a story to cover. So, when the protests put us all on the edge I asked one of the journalists in Shihan newspaper where I used to be the chief editor to prepare a report about the reactions in the Islamic world on the cartoons. In this report we republished three of the controversial cartoons for the purpose of showing people the reality. Simply, people went to the streets without any information about the cartoons or how they looked like.

Personally, as I described them in an interview with News Week, these were silly caricatures and I called to ignore them. I said we should not accept that a cartoon of a fanatic with a bomb shaped as a turban on his head represent an illustration of Prophet Mohammad who had always called for peace and harmony and cooperation between nations. I condemned these cartoons from the beginning because by publishing them the radicalists will have their chance to attack the principal of the freedom of expression and give the Radical Islamists the chance to lead the masses and manipulate public opinion. Moreover, the uprising against Denmark as a country was a mistake which extremely harmed our efforts as Liberal thinkers. Now, the response in the Muslim world gave these silly caricatures value and political meaning which they did not deserve. Another big mistake was when a few European newspapers republished the cartoons to support the Danish Jylands Posten, whereby again the silly

caricatures gained another added value by signalling to Muslims that the West is demeaning them.

After more than four months of my personal plight since I published the cartoons I claimed not guilty in three courts in front of three judges, but I will not claim not guilty in this hall in front of people who have gathered here to defend the freedom of expression. Indeed, I am guilty ladies and Gentlemen-- guilty of being so optimistic and thinking we were in the 21st Century. I thought we had a different understanding of each other, but unfortunately I was wrong. We are still were we used to be when it comes to this Taboo.

The Western media did not dare to be different than the Media in any third world country. In the United States, England, China, Japan and other countries journalists were not smarter than us. Just because they did not republish the cartoons does not mean they cared about the feelings of Muslims but because they thought about their own interests. They put the freedom of expression second and the interests of their countries first. They led us to believe that what we did was a big mistake and that we should be sorry. This is how I realized my guilt when I decided to deal with the cartoons issue as a journalist. So, what do you think, were we wrong or right to tell our readers the truth and show them the controversial cartoons which made them protest and caused that much of pain and suffering? am I wrong when I called in my article the Muslims of the world to be reasonable and think who brings more prejudice to Islam these silly cartoons or a video of a hostage taker slash the throat of his victim and shouting Allah Akbar ...,I believe that this murderer dose not belong to Islam and his crime offended us as human beings more than any illustrations or statements and I will not change my believes or what I said in my article ...those murderers who killed our colleague Atwar Bahjat from Al Arabia TV that savage way are not Muslims even if they claim so by shouting Allah Akbar in front the camera ...they are animals, that video of Atwar's torch and murder offended all of us not just Muslims but also people all over the world more than these silly cartoons . Nevertheless the Jordanian Association of Journalists included my article with the accusations which they raised against me and used my thoughts as evidences, my call (Muslims of the world be reasonable) became a crime for which I was taken to the discipline committee, I refused to attend any hearing session so the committee decided to dismiss me from the association, which means I cannot work in Jordanian media.

This is the second punishment which was taken against me by the Jordanian Association of Journalists ,the first one was in 1997 when I visited Israel as a part of my job and entered another Taboo ,at that time the conservative wing in the association accused me of (normalization) with the enemy which is similar to betrayal .

I won that battle with my colleagues because we were right by serving the case of peace and preserving the freedom of expression .Today I'm facing more serious threats than 10 years ago but I'm also surrounded of friends, supporters who fight against radicalism inside the Journalists association and I am sure that we will win this battle too.

In many articles I have been called a brave journalist, but why am I so brave if I'm doing my job? Probably because we are working in a different environment, and facing extremely serious challenges such as the religious and cultural sensitivities. The cartoon crises is an example from what we should draw lesson. Unfortunately in our societies we cannot preserve freedom of press simultaneously with the religious and cultural sensitivities of people. The standards are different than anywhere else in the world. The relationship between the freedom and responsibility is an odd one and directly affects the independence of the media. Our journalistic responsibility is always first but the freedom of the press comes tenth in between taboos and untouchable topics. In Jordan the awareness about the religious and cultural sensitivities became very high, because of the political tensions in the region, especially after the declaration of war on terror three years ago, and the formation of beliefs throughout Muslim world that the west is targeting Islam and Muslims under the slogan of defeating terror. This theory increased the hate speech in the media not just against the countries involved in the war but also against those who support the war on terror such as us that's how Jordan became a target for terrorism. This made further sanctions taken against me as acceptable and gave the radicalists the motive to attack the freedom of the press. This is how the newspaper Shihan and I became victims of a contest between the government or the state in general and the political Islamists. Each side wanted to prove its loyalty to Islam more than the other. The government chose the legislative measures and went far in its punishments: I was taken to three different courts for the same crime, but the prosecutor divided the crime into three different accusations. So far I have been convicted in one and found guilty of violating the sensitivities of the religious feelings of Muslims. The penalty is two months in jail, and I am waiting on the decisions of the other two accusations, but the most dangerous accusation which was raised in the Sharia court by two fanatics is the accusation of blasphemy. The punishment if convicted is a death penalty by the Sharia law. However, in the five cases in Jordanian history brought before this law, no one was convicted. Nevertheless, the danger of this kind of accusation reflects the reality of our environment in which we work and struggle for our freedom of expression.

Until today courage costed many brave colleagues their lives ,my courage costed me every thing but my life ,I lost my job ,my reputation but the greatest loss is losing the hope of changing the thoughts of our people about the others , this will never happen unless others start changing their thoughts about us and our states stop following instead of educating and lead the masses ,until that day we Liberal journalists thinkers of Muslim world will keep sacrificing to preserve the freedom of expression as the first step of any changes or reforms .

Dear colleagues

In our battle we need your help and support not just your sympathy Thank you for inviting me to hear my story that applies on many journalists in our world , and thank you indeed for giving me the chance to feel free journalist again .

Ms Dunja Mijatovic, Director of the Broadcasting Division, Communications Regulatory Agency of Bosnia and Herzegovina

(From PPT Presentation)

Introduction

- Media is crucial to the exercise of freedom of expression and opinion
- Structural stability of the media depends on law guaranteeing freedom of expression
- Freedom of expression comes with rights and obligations; there should be a balance between freedom of expression and the duties it carries.
- Regulation not censorship
- Sensationalism, propaganda, chauvinism, incitement to hatred, national and religious intolerance, unfair reporting, insulting language, insistence of one's own ethnic purity, pretentious political goals-What are the results of such behaviour?
- Could such media behaviour be called use or abuse of freedom of expression?

BiH Case

- Media- instruments of politics
- Legacy of previous regimes- Limitation of freedom of speech from previous system had to be overcome
- Media spreading hate-mongering propaganda resulting in conflict

How to preserve healthy media environment-preconditions:

- free flow of expression, speech, press and access to information
- editorial independence
- encouraging broadcasters to develop own codes of practice that would cover issues in programming regarding protection of children, the portrayal of violence, fair and accurate programmes, safeguards against the portrayal of people in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status, or as a consequence of legitimate expression of religious, cultural or political beliefs
- existence of independent regulatory body empowered to adopt Codes and issue sanctions. The legal status of these bodies should be clearly defined in law. Their institutional autonomy and independence should be guaranteed and protected by law
- strong PBS that is producing a variety of programs, objective news and in general programs that are free of political and commercial influence and pressure
- environment that provides possibilities of balance between private and public media in an open market, the existence of a wide range of independent broadcasters and programming that represents and reflects society as a whole.
- training for journalists
- healthy and active involvement of civil society

Ms. Martine Vallee, Director of Social Policy, Canadian Radio Television and Telecommunications Commission

Good morning. It's a real pleasure to be here and a privilege to be able to contribute to the discussion of such an important and topical issue.

I would like to share with you the Canadian experience in fostering mutual respect and understanding through our broadcast media and in dealing with questions of fair and accurate portrayal of minority groups on television and radio. I will focus on our experience with industry-developed solutions and broadcast codes; initiatives that are developed and agreed upon by broadcasters themselves in consultation with the communities in question.

The CRTC (Canadian Radio-television and Telecommunications Commission) is an organization independent from government that is charged with regulating and supervising the broadcasting and telecommunications industries. A key part of our mandate is to ensure that the broadcasting system in Canada is effectively owned and controlled by Canadians and provides pride of place for Canadian expression, programming, music and other creative talent. The legislation that sets out our mandate on the broadcasting side (Broadcasting Act) specifies that the Canadian broadcasting system should serve to safeguard, enrich and strengthen the cultural, political, economic and social fabric of Canada.

Canada is one of the most ethnically and culturally diverse countries in the world. It is home to people of more than 200 different ethnic and cultural groups. Approximately 20% of our population was born outside the country. As in many countries, Canada's visible minority population is expected to continue to increase. It is projected that by 2017, one Canadian in five will be a visible minority and that visible minority groups will account for approximately 85% of our overall population growth.

Canada's broadcasting system serves its ethno cultural and Aboriginal communities in a variety of ways. The CRTC licenses radio and television services to provide programming specifically by and for ethnic and Aboriginal communities. There are currently over 100 3rd language ethnic radio and television services, numerous Aboriginal radio and TV stations, and Aboriginal Peoples Television Network, a national network available to all Canadians. Providing Canadians from all backgrounds with the opportunity to participate in the broadcast media is but one piece of the puzzle.

In the view of the CRTC, all broadcast media can play an important integrative role in society by fostering mutual respect, acceptance and understanding of minority groups. In fact, we believe that mainstream broadcasters have a responsibility in this regard -- to respect, reflect and actively promote Canada's diversity.

What this boils down to is developing a system that is inclusive; one that reflects all Canadians to each other and that respects equal rights of women, visible minorities, Aboriginal peoples, persons with disabilities and other minority groups.

Television should be an accurate reflection of the society it serves, but this is not always the case.

Recent research shows that while Canadians of Asian and Southeast Asian descent represent Canada's largest visible minority population, they are significantly under represented on television.

Similarly, Aboriginal peoples are virtually absent from the screens of private television in Canada. In fact, they are "persistently invisibilized by the media and continue to be one of the most misrepresented and stereotyped groups in Canada."

What message does this send to viewers? The lack of presence of specific groups in our mainstream media sends a signal to the communities in question and to Canadians overall that these groups are not part of Canadian society; in fact, it denigrates their value as equal members of society.

Reflecting diversity is not simply a matter of putting faces on the screen. Fair and accurate portrayal is a fundamental responsibility in this regard as it helps to ensure respect and understanding of the many communities that make up our population. The manner in which a group is portrayed by the media can have a significant impact on how others perceive that community and how members of the community perceive their place in society. Stigmatization and stereotyping of a given minority group, for example, can contribute to its marginalization and prevent full contribution and participation in society.

Take for example victimization. Research shows that on television in Canada, persons with disabilities, when shown, tend to be portrayed as vulnerable or weak; as victims of a crime or other wrong doing. This, in turn, can strongly influence the way in which viewers perceive a person with a disability – as weak, vulnerable and incapable, and can contribute to their exclusion from employment and other areas of life.

Racialization of crime in news and drama. Anti-immigration sentiment in the news. Reinforcement of negative stereotypes of Aboriginal peoples as 'problem people'. These were also found to be prevalent in recent studies. These patterns can reinforce an "us" against "them" mentality that generates hostility towards visible minorities and Aboriginal peoples.

Industry-Developed Solutions

Fostering cultural diversity in broadcasting has been a key priority for the CRTC in recent years. Our focus in this regard, as in other areas of social policy, is on industry-developed solutions and broadcast codes.

The strategy we have taken is to impose obligations on broadcasters to improve representation and portrayal in the media, but to put the onus on the industry itself to come up with the initiatives and solutions to accomplish this. We have found that this strategy increases broadcasters' understanding of the issue at hand and tends to result in greater acceptance by the industry. It also generates solutions that are consistent with broadcasters' business strategies.

For example, upon request by the CRTC to take action, the Canadian Association of Broadcasters (CAB) – which represents Canada’s private broadcasters -- undertook extensive research into the reflection of visible minorities and Aboriginal peoples on television. It also conducted extensive research on the representation and portrayal of persons with disabilities on TV. Based on its research findings and consultations with communities, the CAB developed an extensive set of best practices for broadcasters, along with specific industry initiatives.

The best practices – which virtually all private broadcasters have committed to -- deal with many aspects of a broadcaster’s operations, both on- and off-screen, such as recruitment and hiring, internships, news and information programming, and community connections. For example, one of the best practices dealing with news programming provides that: “A television, specialty, or pay broadcaster will diversify its use of experts on air to include individuals from a broad range of ethno cultural and Aboriginal backgrounds.” Broadcasters have implemented this in various ways, such as diversifying their contact data bases and holding open houses with experts from ethnocultural communities in order to generate new contacts.

The CAB has also been implementing a variety of initiatives on its own and with industry partners to advance diversity goals within the broadcasting system – for example, developing an industry website on diversity initiatives and programs, and creating a public service announcement directed at influencing a positive shift in public attitudes about persons with disabilities.

The Commission monitors how individual broadcasters and the industry association are progressing through annual reports that they file.

In addition to the best practices and industry initiatives, broadcast codes for programming standards play a critical role in the Canadian broadcasting system by setting out industry standards and specific guidelines for portrayal and other programming content. Broadcasters adhere to a variety of codes, addressing areas such as gender portrayal, ethics, violence on television and advertising to children. Through these codes, broadcasters commit to respect the interests and sensitivities of the people they serve, while meeting their responsibility to preserve the industry’s creative, editorial and journalistic freedom. Broadcasting codes are developed by the industry, sometimes at the request of the Commission and other times are initiated by the industry itself.

The beauty of industry codes is that they are created and agreed upon by the broadcasters themselves, and are developed in consultation with the public. Hence they contain generally agreed upon principles and serve as the basis for adjudication in the event that a complaint is received about programming content.

For example, the Canadian Association of Broadcasters’ Code of Ethics prohibits abusive or unduly discriminatory comments based on race, religion, national or ethnic origin, skin colour, gender, sexual orientation and so on. It prohibits unfair or unsafe contests. It requires that news be presented accurately and without bias.

The CAB's Sex-Role Portrayal Code stipulates that men and women should be portrayed as intellectual and emotional equals. It says that negative or degrading comments are to be avoided. It also provides that the sexualisation of children is unacceptable.

The industry is currently working on a new portrayal code to address the concerns that have been raised in research about the portrayal of visible minorities, Aboriginal peoples and persons with disabilities on television.

Most broadcasters in Canada are members of the Canadian Broadcast Standards Council (CBSC). The CBSC is a self-regulatory, independent, non-governmental body that administers broadcaster codes and adjudicates complaints. The CRTC remains the final arbiter in the event that a complainant isn't satisfied with the outcome from the CBSC. However, it is rare that we have to exercise that power. In our experience, the self-regulatory system works because it strikes a nice balance among the needs of the public, the CRTC and the broadcaster.

In addition to industry codes, the CRTC has a regulation in place that prohibits the broadcast of comments that are likely to expose a group to hatred or contempt based on race, national or ethnic origin, colour, religion, sex, sexual orientation, age, mental or physical ability. This prohibition is consistent with the Canadian Charter of Rights and Freedoms which protects "freedom of thought, belief, opinion and expression", subject "to such reasonable limits ... as can be demonstrably justified in a free and democratic society."

We refer to our regulation as "abusive comment". Abusive comment is an extreme situation. It is important to understand that it is a very high threshold in terms of intervening or limiting speech. Our experience has shown that CRTC intervention is required in very few and only very clear instances of hatred or contempt. Our focus is on ensuring the broadcaster takes corrective action and puts measures in place to prevent recurrence of similar situations. There has been one instance in which the CRTC did not renew the licence of a broadcaster because of abusive comments that were aired. This was an unusual circumstance in which there were repeated instances of abusive comments over years, a flagrant disregard for Commission regulations, and lack of attempt on the part of the broadcaster to take corrective measures.

Conclusion

In Canada, the right to freedom of expression comes with responsibilities. This is especially the case in broadcasting, where the privilege to be able to operate a radio or television station is granted to relatively few citizens. As a result, we as regulators, and the broadcasters themselves, generally recognize that broadcasters are most likely to enjoy the benefits of journalistic freedom and creative independence when their responsibilities are clearly articulated and agreed-upon by all involved. In this kind of environment, the rules are made clear through the development of consensus-based solutions to challenges such as the fair, accurate and equitable portrayal of minority groups.

In our experience, building consensus involves a combination of key elements, including:

- engaging in research to identify the roots of specific problems or concerns and develop potential solutions
- collaborating with communities, broadcasters and the regulator to share knowledge, develop expertise and build relationships of trust
- encouraging and supporting leadership within the industry
- ensuring broadcaster accountability (to both the regulator and the public) through formal, public commitments that are concrete, specific and measurable over time.

These steps take time and patience, but are worthwhile when they create an environment where all perspectives and points of view can thrive in a culture of respect and understanding.

Thank you very much for your patience in listening to me this morning and I look forward to your questions.

CRTC links:

- CRTC web site: www.crtc.gc.ca
- Broadcasting Act: <http://www.crtc.gc.ca/eng/LEGAL/BROAD.htm>
- Commission's response to the report of the Task Force for Cultural Diversity on Television, Broadcasting Public Notice CRTC 2005-24, 21 March 2005
<http://www.crtc.gc.ca/archive/ENG/Notices/2005/pb2005-24.htm>
- Commission's response to the Canadian Association of Broadcasters' final report on the presence, portrayal and participation of persons with disabilities in television programming, Broadcasting Public Notice 2006-77, 19 June 2006
<http://www.crtc.gc.ca/archive/ENG/Notices/2006/pb2006-77.htm>

Canadian Broadcast Industry links:

- Canadian Association of Broadcasters (CAB): <http://www.cab-acr.ca>
- Social Policy Issues: <http://www.cab-acr.ca/english/social/default.shtm>
- Diversity in Broadcasting:
<http://www.cab-acr.ca/english/social/diversity/default.shtm>
- Canadian Broadcast Standards Council (CBSC): <http://www.cbsc.ca>

SESSION 3: Protection of Journalists: Administrative Measures

Ms. Ioana Avadani, Executive Director of the Centre for Independent Journalism, Bucharest

(From PPT Presentation)

There is the law and there is the implementation of the law.

While most of the countries in the region have adopted permissive legislation, its implementation to its full consequences is seldom the rule. There is the law and there is the implementation of the law.

1) Access to information:

- legislation adopted over the last years is not known;
- lack of internal mechanisms required under the law within the public institutions,
- discrimination among applicants;
- adverse secrecy legislation adopted post-FOIA.

2) Criminal prosecution of libel and insult

- modest steps in legislation (decriminalization of insult, but not of libel, eliminating prison terms);
- still unconsolidated incorporation of the ECHR case law and practices;
- arbitrary level of damages and compensations

Example: Turkey: Article 301 on "insulting the Turkish identity, the Republic, the State's organs and institutions" is in fact used by the judicial authorities to silence a certain kind of opinion.

Administrative measures and conduct that can influence the media functioning

1) *Registration of the media companies*: The entry to the market is free, with no special provisions for the media companies;

Exceptions: Belarus, Moldova (as an option). But, is registration of the media really a good idea?

2) *Information on ownership* is only apparently transparent: data are not checked for accuracy; data are "hidden" in the commercial registries and it takes time, resources and money to retrieve them;

3) *Taxation* is the same for all companies and industries. There are movements for reduced taxation in Bosnia & Herzegovina, Bulgaria, Croatia, Kosovo.

Example: Serbia – print media charged 8% VAT (as compared to the general 18%)

But, should "preferential taxation" be a way of recognizing the special status of media among other businesses?

4) *Licensing of broadcasters* could be a way to secure the proper administration of the airwaves seen as a public asset; and it could also be a way to secure a free and competitive market, as precondition of the pluralistic media.

5) The liberal approach of the most governments has created *overcrowded markets*: Albania, Montenegro, Romania. Should the states attempt to shape up and trim the market via the licensing process or should the market be left to itself?

6) The delayed action kept the *market underdeveloped*

Examples:

Bulgaria: “The total absence of licensing over the past few years has placed the legitimate licensees at a disadvantage against the broadcasters who went on air without undergoing the official procedures”. (Media Sustainability Index, 2005)

Serbia: No regulation whatsoever for the prospective licensees to follow

7) The delayed action did not keep up with the *growth of the media market*. Many outlets are functioning illegally, making the post-factum regulation painful.

Example:

Albania: Penetration of digital TV is 20%, while there is no legislation in this respect

Licensing is perceived as a highly politically influenced process and/or corrupt and non-transparent.

Example:

Albania: the licensing does not tie the growth of the media sector to the adherence to professional and legal standards.

8) *Accreditation of journalists*

- as a precondition to entry and practice the profession;
- as a “clearance” to access the HQ of institutions or special events;
- abuses by states include: delay/refusal of accreditation for “non-aligned” media outlets, withdrawal of accreditation in case of negative coverage, excessive limitations imposed to the access in the public institutions;

9) Discretionary allocation of *state advertising*: functions like hidden subsidies, to keep afloat or favor “friendly” media; consumes unnecessarily the public funds; keeps the state as a discretionary player on the market and affects fair competition;

Countries affected: Albania, Kosovo, Macedonia, Moldova, and Romania

Examples:

In 2005, Romania introduced special provisions securing the transparency and fair allocation of the state advertising. One year later, the transparency provisions became the rule for all public procurement. State advertising budgets decreased from EUR 14,7 million in 2004 to EUR 3,8 million in 2005.

Other forms of administrative measures

- Excessive controls (fiscal authorities, labor authorities, fire department, etc);
- Repeated sanctions and/or lawsuits directed against the independent media; “guided” court decisions;
- Harassment of journalists and media outlets on issues other than libel (ex: influencing the justice, threats to national security);
- Discriminatory treatment in dues and debts collection;
- Forced subscriptions to “friendly” newspapers;
- Discretionary release of permits for premises, kiosk, distribution network;
- Discriminatory distribution contracts/practices with state-controlled agencies (distribution networks, postal services).

The role of the international community

- Major changes in the legislation have been done under the IC pressures (EU, OSCE, CoE): Albania, Serbia, Montenegro, Macedonia, Romania;
- Strong influence on the market: Bosnia, Kosovo, Moldova, Montenegro
- Kosovo: “An OSCE report recommended a reduction in the number of station but did not provide guidelines on determining who should survive”. (Media Sustainability Index, 2005)

New kind of challenges:

- functional and balanced markets, with proper monitoring systems in place (circulation audits, audience measurements, anti-monopolistic legislation passed and enforced, viable independent watch-dogs);
- a knowledgeable political class and functional institutions, with adept public servants;
- a responsible ownership – media as a public service;
- The “digital revolution” – new media and new technologies that will reshape the very definition of the concept of mass-media.

Word of wisdom

“Several lies do not amount to a truth.”

Plurality and freedom have to be doubled by quality journalism and responsible professionals.

Mr. Azer Hasret, Director of the Central Asian and Southern Caucasian Freedom of Expression Network

(From PPT Presentation)

CASCFEN and Countries

Central Asian and Southern Caucasian Freedom of Expression Network is an organization to protect and promote freedom of expression and press in the following countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

Below are the main administrative difficulties faced by the media in the South Caucasus and Central Asia.

Armenia

- A1+ off the air since April 2002. Operates as a production studio and publishes a newspaper Ayb Feh.
- Control over TV channels
- Yerevan Press Club

Azerbaijan

- Licensing
- Accreditation
- Beating
- Registration

Georgia

- State influence of independent TV channels
- Lack of transparency in media ownership
- Increased media self-censorship
- Gela Mtiulishvili attacked: 22 June, 14 July and 22-23 Nov

Kazakhstan

- Internet blockade
- Suspension of opposition newspapers
- Heavy fines imposed on newspapers (Soz, US\$39,000)
- Insulting of honor and dignity of the president (Juma Times, February, CNS)
- Journalists are in danger

Kyrgyzstan

- Easy to register print media
- Respublika, Moya Stolitsa-Novosti, Kyrgyz.us, Monitoring.kg web sites
- Discrediting e-mail messages
- RFE/RL blocked on 24 Feb in medium wave
- MSN
- Public Association “Journalists”

Tajikistan

- Freelance journalist Jumaboy Tolibov was sentenced to 2 years in prison on 28 July on charges of hooliganism, illegally entering a residence and abuse of office (Minbari Halk and Sadoi Mardum) released on Dec 16
- Mukhtar Bokizoda, chairman of the Foundation for the Memory and Protection of Journalists and the editor of Nerui Sukhan, was sentenced on 25 August to two years of corrective labour for stealing.
- Internet blockade
- NANSMIT

Turkmenistan

- Exit visa
- Internet blockade
- Accreditation of foreign journalists
- Entering the country
- Bringing any kind of printed materials into country etc.

Uzbekistan

- Internet blockade (freeuz.org)
- Exit visa (Alo Khojayev)
- Registration of mass media
- Attacks
- Erk newspaper
- CFSE
- Ozod Ovoz

Baku Declaration

We express the following:

- To all states of region to bring legislative base into accord with the international norms;
- To abolish all kinds of state organs engaged in regulation of activity of mass media;
- To create all necessary conditions for normal functioning of mass media;
- To forbid to the state bodies to establish mass media;
- To allow journalists to move in the territory of five countries of the Central Asia and three countries of Southern Caucasus without visa.

We call on OSCE, the Council of Europe and all other international organizations to give more attention to region of the Central Asia and Southern Caucasus in sphere of maintenance of rights and freedoms of journalists, and also by way of rendering assistance in becoming and development of independent mass media.

ANNEX V: Biographical Information on keynote speakers, introducers and moderator

Ms. Agnès Callamard, Executive Director Article 19 (Keynote Speaker)

Ms. Callamard has been the executive director of Article 19 since October 2004. She is a former chef de cabinet for the Secretary General of Amnesty International. As the organisation's Research Policy Coordinator, she led Amnesty's work on women's human rights.

She was the founder and head of HAP International (the Humanitarian Accountability Partnership) where she oversaw field trials in Afghanistan, Cambodia and Sierra Leone, working extensively in the field of international refugee movements with the Centre for Refugee Studies in Toronto.

She has been widely published in the field of human rights, women's rights, refugee movements and accountability.

Ms. Callamard holds a PhD in Political Science from the New School for Social Research in New York.

Mr. Roland Bless, Senior Advisor to the Representative on Freedom of the Media (Moderator Session 1)

Mr. Bless became a Senior Advisor to the Representative on Freedom of the Media in 2004. Before that he was the spokesperson of the Stability Pact for South Eastern Europe.

He was also a spokesperson and Head of Press, Public and Internal information unit at the OSCE Mission in Kosovo

He worked as a foreign correspondent for Swiss daily "Tages Anzeiger" and other German language newspapers in Hanoi.

Mr. David Banisar, Independent legal consultant (Introducer Session 1)

Mr. Banisar is currently advising the Office of the Representative on Freedom of the Media on its Access to Information Database launched in May 2006.

He is a Visiting Research Fellow at the Department of Law at University of Leeds, and a Research Fellow on the Information Infrastructure Project at Kennedy School of Government, Harvard University.

He is the author of several publications and legal reviews, including "Freedom of Information and Access to Government Records Laws around the World (2001-2004)".

Mr. Pol Deltour, National Secretary of the Union of Belgian Professional Journalists, and the Flemish Union of Professional Journalists (Introducer Session 1)

Mr. Deltour worked as a professional journalist from 1990 till 1998 for the Flemish daily newspaper De Morgen, and was during this period an active member of the Union of Belgian Professional Journalists' Working Group for Media and Migrants, as well as the Council on Work Ethics. He is an expert on the Belgian Protection of Sources Law.

Mr. Miklós Haraszti, OSCE Representative on Freedom of the Media (Moderator Session 2)

Hungarian writer, journalist, human rights advocate and university professor Miklós Haraszti was appointed the OSCE Representative on Freedom of the Media effective from 10 March 2004. He was born in Jerusalem in 1945.

Mr. Haraszti studied Philosophy and literature at the Budapest University and in 1996 received an Honorary Degree from Northwestern University in the United States.

In 1976 Mr. Haraszti co-founded the Hungarian Democratic Opposition Movement and in 1980 he became editor of the samizdat periodical Beszélő. In 1989, he participated in the "roundtable" negotiations on transition to free elections. A member of the Hungarian Parliament from 1990-1994, he then moved on to lecture on democratization and media politics at numerous universities.

Mr. Haraszti has written several essays and books, including "A Worker in a Worker's State" and "The Velvet Prison", both of which have been translated into several languages. His essays have been published in The New York Times and The Washington Post. He speaks English, Russian and German.

Mr. Johann Fritz, Director of the International Press Institute (IPI) (Introducer Session 2)

Mr. Fritz has been the Director of the International Press Institute (IPI) since 1992. Before that he managed the daily paper "Die Presse" from 1975-91 and was Managing Director of "Vienna Cable Television" from 1975-83.

In March 2000 he was awarded the title of Professor by the Austrian Federal Ministry of Science and Research, and in 2003 received the Gold Medal for the Meritorious Service to the Province of Vienna.

Mr. Jihad Momani, Former editor of Jordanian newspaper Shihan (Introducer Session 2)

Mr. Momani was the chief editor of Shihan Weekly Newspaper from 1992 till 2006. He is a Jordanian journalist, writer, novelist, and independent political activist. He holds a Master degree in Journalism from Tashkent University in Uzbekistan.

Ms. Dunja Mijatovic Director of Broadcasting at the Communications Regulatory Agency (RAK) (Introducer Session 2)

Ms. Mijatovic is the Director of Broadcasting at the Communications Regulatory Agency (RAK) in Bosnia and Herzegovina. In May 2003, she was elected Vice- Chair of the European Platform of Regulatory Agencies (EPRA). Presently, 48 regulatory authorities from 38 countries in Europe have become members of the EPRA.

In 2005 she was appointed as the Chairperson of the Council of Europe's Group of Specialists on freedom of expression and information in times of crisis.

Ms. Martine Vallee, Director of English Pay, Specialty and Social Policy at the Canadian Radio-television and Telecommunications Commission (CRTC) (Introducer Session 2)

Ms. Vallee is the Director of English Pay, Specialty and Social Policy at the CRTC (Canadian Radio-television and Telecommunications Commission). She has over 15 years of experience managing policy development and public proceedings at the Commission.

In the area of social policy, she is responsible for social issues in television and radio broadcasting, including cultural diversity, programming standards, industry codes and self-regulation, closed captioning, described video, religious broadcasting policy and television violence.

Ms. Vallee has an M.A. in Sociology.

Mr. Adam Krzemiński, Polish journalist and commentator (Introducer Session 2)

Mr. Krzeminski is specialized in German-Polish relations and history. He is Chairman of the Polish-German Association in Warsaw.

Considered as "one of the leading publicists of Poland", he has been editor of the Polish weekly [Polityka](#) since 1973, and he has been guest editor of the German weekly [Die Zeit](#).

In 1993 he was awarded the Goethe Medal, and in 1996, the Essay Award of the Polish P.E.N. Club. His books include "Polen im 20. Jahrhundert. Ein historischer Essay" (Munich: Beck, 1993).

Mr. Ali Dilem, Algerian Cartoonist (Introducer Session 2)

Mr. Dilem studied at the National Art School in Algiers.

In 1991, he drew cartoons for the independent Algerian daily Le Matin. Since 1996, Dilem has worked as a cartoonist for the Algerian daily Liberté. Dilem also works for French TV5's Kiosque program.

In 2000, he was awarded the International Prize of Drawing in Written Press. In 2005, Dilem was awarded the Freedom of Press Trophy; in 2006, he received the prestigious Cartoonist Rights Network Award.

Mr. Patrick Chappatte, Editorial cartoonist of the International Herald Tribune (Introducer Session 2)

Mr. Chappatte is also cartoonist of the Sunday edition of Neue Zürcher Zeitung, in Zurich, and of the daily Le Temps, in Geneva.

Five collections of his political cartoons have been published. The latest, “Another World - 2000-2004: Cartoons from the International Herald Tribune” was published in October 2004

Ms. Heidi Smith, Senior Advisor to the OSCE Representative on Freedom of the Media (Moderator Session 3)

Ms Smith became Senior Advisor to the Representative on Freedom of the Media in 2006. Prior to this appointment she was Spokesperson for the OSCE Office in Minsk and a member of several OSCE/ODIHR Election Observation Missions.

She has written academic books for Kogan Page and created a bestselling series for Hodder Headline. She has also published academic and social articles on political and economic transition in Europe.

Ms. Smith speaks English, Russian and French.

Ms. Ioana Avadani, Executive Director of the Centre for Independent Journalism (CIJ) (Introducer Session 3)

Ms. Avadani has been the CIJ executive director since 1999. CIJ is part of the Southeast European Network for Professionalism of Media (SEE NPM), a network made up of 17 media institutes and training centres for journalists in 10 Balkan countries.

Mr. Azer Hasret, Chairman of Central Asian and Southern Caucasian Freedom of Expression Network (CASCFEN) (Introducer Session 3)

Apart from being the Chairman of CASCFEN, which is based in Baku, Mr. Hasret, is also the Secretary General of Azerbaijan Journalists Confederation (AJK). He is a Board Member of International News Safety Institute (INSI) in Brussels, and a Council Member of International Freedom of Expression Exchange (IFEX).

ANNEX VI Opening and closing remarks by Mr. Miklós Haraszti, OSCE Representative on Freedom of the Media

Opening remarks

Dear Ambassadors, dear Participants, welcome to this Supplementary Human Dimension Meeting on Freedom of the Media: Protection of Journalists and Access to Information. I am pleased that you are all here today, as the role played by the governments and the NGO community in media democratization is of utmost importance.

This meeting will have three working sessions, each one of them focused on one of the three outstanding dangers currently faced by the media in the OSCE region.

Access to Information is both a classic and modern challenge. It is a classic challenge because pluralistic access to information in society to and from all participants of public life, including to and from government, is the actual purpose of media democratization. It is a modern challenge, too, due to the new possibilities that lie in e-governance and digital information storing. Although it is absolutely legitimate for a state to have certain limits to access to information when national security interests are at stake, we have recently seen growing use of these restrictions. At stake are the accustomed investigative rights of the media. These challenges will be discussed during the first working session.

The second danger to freedom of expression is intercultural misunderstanding, as we have witnessed in the recent controversies caused by secular artistic depictions of religious subjects. Some governments reacted to these events by planning to pass new speech restriction rules, or by applying laws that were not originally designed to handle these types of problems. However, punitive measures enforced by states can not lead to a formation of a self-regulating ethics, the only device that can be conducive to a growth of intercultural understanding and to a mutual rapprochement of only seemingly opposing cultures. It must be implemented by the media itself. Freedom of expression is a pre-requisite if we want to get to a higher level of cultural understanding. Only a completely free media can be a responsible media. Artistic freedom, cultural understanding, self-regulation and other issues related to these topics will be discussed by our special panel in the second session.

Administrative discrimination faced by the media in the OSCE region will be the focus of the last session. While some administration is necessary to allow for the well-functioning of the media, a worrying development is happening in quite a few of the OSCE participating States. Administrative measures, seemingly based on the rule of law, at a closer glance can be seen as differently applied for different media outlets. The media can only be free if private and government media are treated equally. Regulation, re-regulation, accreditation, taxation and distribution restrictions are only some of the methods used to discriminate. In order to ensure freedom of the media, the revision of these tools need to be carried out by the governments themselves.

I am convinced that our deliberations at this meeting will prove to be a great contribution to overcoming these three dangers. Our discussions will facilitate better legislation and ease a better cooperation between NGOs and governments.

I will now pass the floor to Ambassador Strohal, Director of ODIHR, asking him to put the importance of this Meeting into the framework of the OSCE human right commitments.

Closing remarks

Ladies and gentlemen,

We have spent the last two days discussing three major media freedom issues: access to information, the relation between freedom of expression and the promotion of mutual respect and understanding, and administrative hindrances to the well-functioning of the media. I believe we have had a very educative meeting.

The session moderators have already given a summary of the three working sessions, so I will not go into that again and keep this closing statement brief.

I would like to thank our wonderful speakers for their willingness to participate in this conference. Their speeches have given us all something to think about, and to continue building towards freedom of expression.

Thanks to all our participants, NGOs and Delegations, who allowed for a lively debate, and gave us insight in the reality of freedom of expression in the OSCE region.

I would like to express my gratitude to the Belgian Chairmanship, in the name of freedom of the media, for offering this splendid possibility to discuss media freedom issues, and also for their cooperation in organizing this event.

The assistance and expertise given to us by the ODIHR staff has been excellent. Thank you for this, Ambassador Strohal, and the same thanks go to your office. It is due to their experience that this meeting went so smoothly.

I also would like to express my appreciation for the work done by the interpreters and the people at conference services.

And finally, I would like to thank my staff for all the hard work they have put into this conference, and making it a success. Special thanks to Ms. Valerie Crab and Mr. Arnaud Amouroux who were responsible for the meeting and the special panel, respectively.

As usual, a written report will be available in a few weeks time on the proceedings of this meeting. I look forward to the follow-up. I now pass the floor to Ambassador de Crombrughe who will also close this meeting.

ANNEX VII Opening remarks by Ambassador Christian Strohal, ODIHR Director

Ladies and Gentlemen

It is a pleasure for me to be able to be here and to highlight excellent cooperation which the ODIHR enjoys with the Representative on the Freedom of Media and his Office.

Human rights and fundamental freedoms play a key role in the community of values that is the OSCE. In the last 30 years this community of now 56 states has made numerous commitments on democracy and human rights which include, and sometimes go beyond, the guarantees provided for in the legally binding international human-rights instruments.

Not only are these commitments an acknowledgement of the importance of these freedoms, but they also form the basis of our work. When I say our, I am talking about all of us here in this room and of course many more outside. And unfortunately, there is still no reason, in spite of so much effort, to assume that these commitments have been fully implemented. Instead, we are facing new challenges to the very rights and freedoms we have been trying to protect and promote.

All OSCE participating States are committed to guaranteeing citizens such basic rights as the freedom of assembly and association; however, these commitments have not always been met in practice. For example: In some cases, new laws aimed at fighting terrorism or combating violent extremism have prevented people from gathering or from holding peaceful demonstrations. Some laws have also imposed new requirements on NGO registration and reporting. In other cases, individuals have been prevented from forming political parties, especially when in opposition. Curtailing such rights and freedoms impairs the development of democracy and of security. It undermines democratic elections – a necessity for the legitimacy of any government – and is harmful for ensuring vibrant civil society as well as for the activities of human rights defenders.

Why am I mentioning this at a meeting on the freedom of the media? Because we can not look at one particular right or freedom in isolation from others. It is a well-recognised principle of international human rights law that human rights are indivisible. Human rights and fundamental freedoms are closely linked to each other and they are mutually re-enforcing; infringement on one human right or fundamental freedom often leads directly to the infringement of another. If the freedom of association is not respected in a particular country, for example, freedom of expression may be affected adversely as well. And how can we advocate the freedom of assembly if there is no freedom of expression and opinion?

Let me give you another example: In its first working session, this meeting is looking at access to information. If it takes 4 weeks to clear a carload of this organization's publications through 3 different custom offices in one of its member states, Belarus, as we have just experienced, we have a case of impediment to this fundamental

freedom. Furthermore, the publications in question are based on the very commitments the OSCE has made to protect and promote this and other freedoms.

Ladies and Gentlemen:

We met here, in this room, a few months ago, to talk about one of the key groups in promoting human rights and fundamental freedoms, i.e. national human rights institutions and in particular human rights defenders who often face excessive and unjustified restrictions on their activities, including the application of restrictions on the freedoms of assembly and association.

Another obstacle faced by human rights defenders is their portrayal by some governments as unpatriotic traitors in an attempt to sway public opinion against the activities of certain groups or even against the individuals themselves. We have seen examples of such tactics not only in relation to human rights defenders trying to identify and expose current human rights violations but also with regard to those who are trying to uncover past violations. I am fully aware that some of you here today have experienced the very same attitudes and obstacles when it comes to your work.

My office, the ODIHR, supports efforts to protect fundamental freedoms, such as the freedoms of assembly and association, religion and belief in a number of ways, including by offering expert legal advice to governments and OSCE field operations and by organizing meetings that provide a forum to discuss problem areas and suggest relevant solutions. Our work with governments and with civil society is to serve as a constant reminder of the commitments that have been made in their name.

Ladies and Gentlemen,

In early May, my Office, together with the Personal Representative to the OSCE CiO on Combating Intolerance and Discrimination against Muslims, convened a joint meeting with representatives of Muslim communities to discuss strategies to promote a more accurate and balanced representation of their communities in the media. The media have a tremendous potential to help shift attitudes, a potential we can use to make our communities inclusive, cohesive, successful and tolerant.

In this context, I would like to draw your attention to a side event the ODIHR is organizing tomorrow between 12 and 1pm which serves to highlight practical guides and tools for journalists to use when reporting on religious or cultural issues. One of the tools to be presented is a Media Guide on Britain's Muslim Communities. The other tool which will be presented is a Charter on Freedom of Expression and Journalistic Ethics in Relation to Respect for Religion or Belief.

As the son of a journalist, it is a particular pleasure for me to be here today and to be together with a distinguished journalist, my colleague Miklos Haraszti. Having grown up in a household that was living the importance of freedom of expression, it is my firm conviction that freedom of expression is crucial in order to make, to protect, and promote human rights and fundamental freedoms effectively if our societies, old and new democracies, flourish. The freedom of expression, including the freedom of the media in particular, is one of the pillars of democratic society. And while this right should not be restricted unduly in the name of fighting terrorism and violent extremism, it also needs to be exercised with a certain degree of responsibility.

This brings me to a second side-event that the ODIHR will organise tomorrow between 1 and 2pm on Media Coverage of Anti-Terrorism Issues. One of the issues that will be looked at this event is the issue of media responsibility and the balance between freedom of expression and the right to be informed on the one hand, and the right to a fair trial with an impartial tribunal on the other.

Both of the ODIHR's side events will take place consecutively in Room 201. Let me invite you all warmly to these two interesting events.

I am looking forward to our further discussions.

Thank you

ANNEX VIII Opening and closing remarks by the OSCE Chairmanship

Opening remarks by Ambassador Frank Geerkens, Head of the OSCE Chairmanship Task Force

Excellencies,
Ladies and Gentlemen,

Our global world spins on rapid information flows and complex communication technologies. Information, more than ever, means power. Media are powerful agents in our societies. The media are known as ‘the Fourth Estate’ which refers to the power structure during the Ancien regime, but in our modern democratic societies, the media is certainly as well a fourth power, complementing if not confronting the traditional three branches of power, the legislative, the executive and the judiciary.

The role of the media is multifold. The media hold political and other public leaders accountable. Accountability and democratic transparency encourage good governance and trust between citizens and public authority. The media are also instrumental in the emancipation and – allow me the expression – enlightenment of the people. Media are, indeed, an important factor of empowerment of citizens. Media also allow for the expression of dissent, a fundamental right in open and pluralistic societies that is conducive to peace and stability.

Because of its influence and power, the media are sometimes feared and even kept under the thumb, threatened or harassed. Optimal conditions for media to function are not always and everywhere a reality; it’s a challenge both East and West of Vienna.

Due to the media’s vital role, the OSCE has incorporated the media in its body of commitments and its array of activities. The office of the Representative on Freedom of the Media, founded in 1997, is the central operator – and foremost guardian – of the work of the OSCE in the field of the media. Indeed, media freedom is the premise and the precondition of properly functioning media. Without genuine independence and pluralism, the media will be just or even less than paper tigers.

Mr. Miklós Haraszti, the OSCE’s Representative on Freedom of the Media, and his office have been doing an outstanding job, which I would like to formally but also wholeheartedly recognize on the occasion of this special meeting.

The OSCE field missions, too, have launched a series of initiatives in the area of freedom of the media: offering technical facilities, organizing media management trainings or meetings to discuss media reform.

Other OSCE institutions also are important contributors to the promotion of the freedom of the media: the Office for Democratic Institutions and Human Rights in the first place, through media monitoring in the lead-up to elections and through other actions.

It is both a pleasure and an honour to welcome the representatives of these respective institutions here, as well as the many media practitioners and representatives from civil society at large.

The Belgian OSCE Chairmanship has encouraged the organization of this Supplementary Human Dimension Implementation Meeting because of the importance we attach to freedom of the media and the activities of the OSCE Representative Mr. Haraszti. Aside from providing the impetus for this meeting, we also wish to initiate an OSCE-wide program to promote direct contacts between media professionals from East and West of Vienna. Peer-to-peer contacts could contribute to capacity building of the media. The OSCE is fulfilling important missions of capacity building with regard to the three traditional branches of power; the 'fourth power' might also find an interest in this approach.

The Chairmanship believes that more attention could indeed be invested in media development, because of the media's instrumental role in materializing OSCE goals and values. We believe that media development is a litmus test of democratization and liberalizations efforts. Moreover, media development and reform facilitates, and paves the way for, democratization, human rights, and regional stability.

The focus of this meeting is on protection of journalists and access to information. These two interlinked issues give tangible meaning to the perhaps somewhat abstract concept of media freedom. On both issues there is a significant gap between what the OSCE participating States have subscribed to, and what happens on the ground.

I would like to point out that protecting journalists and granting unimpeded access to information is not only of benefit to media practitioners. The interests of the general public are certainly also at stake. People are entitled to information.

Of course this entitlement implies certain responsibilities of the media vis-à-vis society. This brings me to the special session of this meeting, in which a panel of high-profile speakers will discuss voluntary professional standards to promote mutual respect and understanding without affecting freedom of expression. Self-regulation indeed appears to be the most promising method to tackle intercultural challenges while ensuring that the media remains free from governmental control. I look forward to a lively debate on this topic, which can bring us closer to finding appropriate answers for the future.

From a Belgian point of view, a problem that merits our particular attention today and tomorrow is the protection of journalists' sources. Journalists have to be able to keep their sources confidential, even on controversial issues, in order to exercise their profession appropriately, and in turn performing their public duty by meeting the people's right to know. The Belgian legislation in this regard is advanced, and I look forward to the Secretary General of the Belgian Union of Professional Journalists, Mr. Pol Deltour telling us more about how this legislation came about.

Excellencies,

Ladies and Gentlemen,

I wish you a warm welcome to this meeting and trust it will be rewarding.

Closing remarks by Ambassador Bertrand de Crombrugghe, Chairman of the Permanent Council

Thank you very much Mr. Chairman.

Freedom of the media is one of the priorities of the Belgian OSCE Chairmanship. Recognizing the important work of your office, Mr. Chairman, we felt that it deserved more visibility than it already had. Hence, we proposed freedom of the media as a topic for this Supplementary Human Dimension Meeting.

And I believe that this meeting led to our projected result thanks to the excellent organization by you and your staff, in co-operation with the ODIHR and Conference Services. My gratitude also goes to the moderators and the interpreters who always deliver an outstanding job here in the Hofburg.

The real quality of a meeting lies of course in its substance. And your choice of speakers was on target, Mr. Chairman. This was exemplified by the keynote speech of Mrs. Callamard and many of the other introductory speeches. They encouraged a genuine debate on the political commitments in light of the sometimes hard realities on the ground, and that is exactly what we should be discussing in these meetings. In the wake of new terrorist threats and technological evolutions, the climate in which the media is operating vis-à-vis public authorities appears indeed to have become increasingly challenging. Discussions showed that the difficulties that the media faces are geographically widely spread over the whole OSCE area, instead of being concentrated 'east or west of Vienna', and thus showcased that the OSCE deals with 'compliance for all' everywhere.

Yet beyond highlighting problems, the speakers also handed us suggestions and examples of how these deficiencies could be remedied. For instance, Pol Deltour explained to us –based on the Belgian experience- how legislation on protection of sources can ensure that the public receives more information than the limited information that is deliberately communicated by public authorities and societal heavyweights. Protection of journalistic sources laws make it possible for the public to find out about corruption, environmental problems etc. so they can hold those responsible accountable. Aside from suggested solutions, we also learned that a number of OSCE participating States have improved their legislation in the past years, notably on access to information. In this respect, we all look forward to the answers to the 'Access to Information' questionnaire that was distributed by the Representative on Freedom of the Media and the lessons that can be learned from this very useful exercise. In sum, in spite of the many problems and challenges ahead, there is also reason for some optimism.

Ladies and gentlemen,
Dear colleagues and friends,

An important conclusion from this meeting is that all human rights and fundamental freedoms are closely interlinked. No checks and balances in a democratic society, no free and fair elections, no freedom of opinion and expression without a flourishing, pluralistic and free media. Free media is a building block and a catalyst for a whole range of human rights.

That's not just theory; it's also practice, as was frequently highlighted throughout the debates over the past two days. Media professionals never operate in a vacuum. Instead, they often create an important link between civil society and governments and are rightly perceived that way by many.

So free media boosts human rights. But the impact of the media on society as a whole also makes us aware that the work of journalists entails certain responsibilities. These should be ensured in all liberty by the media itself. Voluntary professional standards or self-regulatory systems can promote increased professionalism, accuracy and adherence to ethical standards among journalists, without in any way endangering the freedom of expression and opinion.

Media practitioners should develop their own professional guidelines, thus also avoiding government interference. The session of this morning proved how important it is to continue the debate on the different and complex aspects of this reality. In fact, holding this session was an implementation of the Chairmanship's Perception Paper on Values Related to Free Media.

We all agree that freedom of the media is front and centre. But what if the media simply doesn't have the capacity to function in a decent way, let alone be free? For media to be effectively and efficiently free, it also needs to be effective and efficient in itself. That requires money, people, training, in short: media development. The need for this kind of capacity building is recognized by the Belgian Chairmanship, and we will consult with delegations, OSCE institutions and Field Operations and civil society actors on what the OSCE could do more to support the media, for instance through stimulating peer-to-peer exchanges via media twinning initiatives.

Mr. Chairman, this meeting was rich with ideas, and the Belgian Chairmanship, through consultations with the participating States, will do everything that lies in its power to ensure an appropriate follow up to the many recommendations made during these two days.

Allow me to end with thanking the participants for their presence at this meeting. In the provisional list of participants I counted over 82 delegates from participating States, 15 OSCE Field Operations, 7 international organizations and no less than 102 civil society representatives. A special thanks to all of you for coming and I hope that you can go home with valuable new insights and a broader network of contacts to continue your endeavours in this important field.

Thank you very much.

ANNEX IX Side Events

The Helsinki Document of 1992 (Chapter IV) called for increasing the openness of OSCE activities and expanding the role of NGOs. In particular, in paragraph (15) of Chapter IV the participating States decided to facilitate during CSCE meetings informal discussion meetings between representatives of participating States and of NGOs, and to provide encouragement to NGOs organizing seminars on CSCE-related issues. In line with this decision, NGOs, governments, and other participants are encouraged to organize side meetings on relevant issues of their choice.

The opinions and information shared during the side events convened by participants do not necessarily reflect the policy of the OSCE/ODIHR and OSCE/FOM

Thursday, 13 July 2006	Thursday, 13 July 2006
Title: Freedom of the Media of National Minorities: The case of freedom of expression of national minorities and the freedom of media of Roma Ashkalie Egyptians in Kosovo	Title: Freedom of the Media in Turkmenistan
Convener: ODIHR Contact Point on Roma and Sinti Issues	Convener: Republican Party of Turkmenistan
Time: 13.00 - 15.00	Time: 13.00 - 15.00
Venue: Segmentgalerie 1	Venue: Room 201
Language: English - Romani	Language: English - Russian
	Friday, 14 July 2006
	Title: Television across Europe
	Convener: OSI - Open Society Institute
	Time: 12.00 - 14.00
	Venue: Segmentgalerie 1
	Language: English - Russian
Friday, 14 July 2006	Friday, 14 July 2006
Title: Reporting Diversity in the Media	Title: Media Coverage of Anti-Terrorism Issues: A Human Rights Perspective
Convener: ODIHR Tolerance and Non-Discrimination Unit	Convener: ODIHR Human Rights Department
Time: 12.00 - 13.00	Time: 13.00 - 14.00
Venue: Room 201	Venue: Room 201
Language: English	Language: English

The side events below have been exclusively organized and scheduled at the request of participants of the Supplementary Human Dimension Meeting. The content for each meeting was prepared by the organization convening the events and does not reflect the views of the OSCE, FOM and ODIHR

Thursday, 13 July 2006

Title: Freedom of Media of National Minorities:
The case of Freedom of Expression of National Minorities and
the of Freedom of Media of Roma Ashkalie Egyptians in
Kosovo

Convenor: ODIHR CPRSI
Language: English – Romani

Summary:

There will be a presentation relating to Freedom of Expression and Freedom of Media that are part of the political platform of Kosovo Roma, Ashkalie Forum and the Roma Ashkalie Documentation Center. This political platform is an input of the current programme of comprehensive strategy for Roma Ashkalie Egyptians in Kosovo. It is a joint working process undertaken by the Kosovo provisional self-government institutions and OSCE Mission in Kosovo. The side event is a follow-up to the meetings that was organized in cooperation with the OSCE ODIHR RS Contact Point and the European Roma and Travellers Forum during the recent SHDM on Human Rights Defenders

Thursday, 13 July 2006

Title: Mass Media in Turkmenistan
Convenor: Republican Party of Turkmenistan
Language: English – Russian

Summary:

This side event aims at updating OSCE participating States with current freedom of the media situation in Turkmenistan. Short presentation and first hand information will be provided by Mrs. Tatiana Shikhmuradova, spouse of former Vice Prime Minister and Minister for Foreign Affairs of Turkmenistan Ambassador Boris Shikhmuradov.

Friday, 14 July 2006

Title: Television across Europe: Regulation, Policy and Independence
Presentation of the EUMAP report on Television in Europe

Convenor: Open Society Institute
Language: English – Russian (simultaneous translation)

Summary:

Presentation by the authors, and debate, on the findings and recommendations included in the Open Society Institute monitoring report “Television across Europe: regulation, policy and independence”.

Agenda:

Keynote speaker:
Miklós Haraszti (OSCE Representative on Freedom of Media)
Presenters:

Mark Thompson (Independent Consultant on EUMAP report): Principal findings and recommendations of "Television Across Europe"
Giulio Enea Vigevani (EUMAP reporter for Italy, Professor University of Milano-Bicocca): Television in Italy: main conclusions
Snjezana Milivojevic (EUMAP reporter for Serbia, Associate Professor University of Beograd): Television in Serbia: main conclusions
Rasto Kuzel (EUMAP reporters from Slovakia, MEMO 98 Bratislava): Television in Slovakia: main conclusions
Questions and debate

Friday, 14 July 2006

Title: Reporting Diversity in the Media
Convenor: ODIHR Tolerance and Non-Discrimination Unit
Language: English

Summary:

The event will stimulate discussion on how media professionals can respond to the challenges of reporting on increasingly pluralistic societies fairly and accurately. The event will assess the role of media in driving forward inclusive processes, contributing to community cohesion, and will also present examples of practical working tools for journalists.

Speakers:

Mr. Ehsan Masood (independent journalist) - to present the Media Guide on British Muslims

Mr. Joseph Grieboski - to present the Charter on Freedom of Expression and Journalistic Ethics in Relation to Respect for Religion or Belief

Moderator: Jo-Ann Bishop, Head of the Tolerance and Non-Discrimination Programme, OSCE-ODIHR

Friday, 14 July 2006

Title: Media Coverage of Anti-Terrorism Issues:
A Human Rights Perspective
Convenor: ODIHR Human Rights Department
Language: English

Summary:

This side-event will focus on the issues of media responsibility and the 'balance' of freedom of expression/right to public information on the one hand and the right to a fair trial (with an unbiased jury) on the other. The speakers will focus on the impact of anti-terrorism legislation on media reporting as well as on the impact of biased, sensationalist and highly emotional media coverage (of terrorism-related issues) on the daily work of defence lawyers, particularly in relation to (terrorism) suspects receiving a fair trial.

Speakers:

Mr John Battle, Head of Compliance, ITN, London

Mr Michel Massih QC, Barrister, Toops Chambers, London

Moderator: Christopher Michaelsen, Human Rights Officer (Anti-Terrorism), ODIHR.

ANNEX X Statistics on Participation

The SHDM was attended by a total of 246 participants, including 106 delegates from 44 of the 56 OSCE participating States. Three representatives of OSCE Partners and Mediterranean Partners for Co-operation (Algeria, Japan and Republic of Korea) were also present.

The Meeting was attended by 36 representatives from 17 OSCE institutions (OSCE Secretariat, Conflict Prevention Centre and Office of the OSCE Representative on Freedom of the Media) and missions (Presence in Albania, Centre in Almaty, Office in Baku, Mission to Bosnia and Herzegovina, Mission to Croatia, Centre in Dushanbe, Mission to Georgia, Mission in Kosovo, Office in Minsk, Mission to Montenegro, Mission to Serbia, Spillover Monitor Mission to Skopje, Office of the OSCE Project Co-ordinator in Ukraine, Office in Yerevan)

In addition, five representatives from four international organizations: European Monitoring Centre on Racism and Xenophobia, UN Office on Drugs and Crime UNESCO and United Nations High Commissioner for Refugees; Branch Office in Austria were present

96 representatives from 73 non-governmental organisations participated in the Meeting.

ANNEX XI List of Participants

OSCE Delegations/Partners for Co-operation

ALBANIA

Ms. Albana DAUTLLARI
Deputy Head of Mission, Counsellor
E-mail: albana.dautllari@chello.at

Permanent Mission of Albania to the Int'l
Organizations in Vienna
Reisenerstrasse 27/6a; 1030 Vienna; Austria
Tel: +43-1-328 87 10
Fax: +43-1-328 87 11

GERMANY

Dr. Axel BERG
Ambassador, Head of Mission
E-mail: reg1-osze@diplo.de

Permanent Mission of the Federal Republic of
Germany to the OSCE
Metternichgasse 3; 1030 Vienna; Austria
Tel: +43-1-711 54 0
Fax: +49-18 88-175 51 13

Mr. Helmut KULITZ
First Secretary
E-mail: reg1-osze@diplo.de

Web site: <http://www.wien-isze.diplo.de>
Permanent Mission of the Federal Republic of
Germany to the OSCE
Metternichgasse 3; 1030 Vienna; Austria
Tel: +43-1-711 54 190
Fax: +49-18 88-175 51 13
Web site: <http://www.wien-isze.diplo.de>

UNITED STATES OF AMERICA

Amb. Julie FINLEY
Chief of Mission
E-mail: FinleyJH@state.gov

United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-367 87 85
Fax: +43-1-368 31 53

Mr. Christopher SIBILLA
Deputy Political Counselor
E-mail: sibillacx@state.gov

United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-313 39 32 01
Fax: +43-1-368 63 85

Mr. Chadwick GORE
Staff Adviser
E-mail: chadwick.r.gore@mail.house.gov

U.S. Helsinki Commission
234 Ford House Office Building; Washington, D.C.
20515; U.S.A.
Tel: +1-202-225 19 01
Fax: +1-202-225 43 94

Ms. Janice HELWIG
Advisor
E-mail: HelwigJX@state.gov

U.S. Helsinki Commission
234 Ford House Office Building; Washington, D.C.
20515; U.S.A.
Tel: +43-1-313 39 34 15
Fax: +43-1-313 39 32 55

Mr. Karl OLSON
FSC Adviser
E-mail: OlsonK@state.gov

United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-369 26 67
Fax: +43-1-369 87 37

Dr. Catherine KUCHTA-HELBLING
Foreign Affairs Officer, Central Asia
E-mail: Kuchta-HelblingCL@state.gov

U.S. Department of State; Bureau of Democracy,
Human Rights and Labor
DRL/PHD, 2201 C Street N.W., Suite 7802;

Ms. Julie RASCHKA
Political Assistant
E-mail: RaschkaJD@state.gov

Ms. Christine SCHEDL
Press Assistant
E-mail: SchedlCX@state.gov

Mr. Jonathan HARPER
Intern

Ms. Catherine PLANT
Intern
E-mail: acvienna@state.gov

ANDORRA

Amb. Joan PUJAL LABORDA
Head of Delegation
E-mail: office@ambaixada-andorra.at

Ms. Marta SALVAT
Special Envoy on Policy and Security Issues
E-mail: office@ambaixada-andorra.at

ARMENIA

Amb. Jivan TABIBIAN
Head of Delegation
E-mail: minasyan@armembassy.at

Mr. Nairi PETROSSIAN
Second Secretary
E-mail: petrossian@armembassy.at

AUSTRIA

Dr. Harald W. KOTSCHY
Minister Plenipotentiary
E-mail: harald.kotschy@bmaa.gv.at

Mr. Jakob SCHEMEL
Attache
E-mail: jakob.schemel@bmaa.gv.at

Washington, D.C. 20520; U.S.A.
Tel: +1-202-647 20 51
Fax: +1-202-647 95 19
Web site: <http://www.state.gov>
United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-313 39 37 12
Fax: +43-1-368 63 85
United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-313 39 34 26
Fax: +43-1-368 63 85
United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-31 339
Fax: +43-1-368 63 85
United States Mission to the OSCE
Obersteingasse 11/1; 1190 Vienna; Austria
Tel: +43-1-369 26 97
Fax: +43-1-369 87 37

OSCE Delegation of the Principality of Andorra
Karntnerring 2A/13; 1010 Vienna; Austria
Tel: +43-1-961 09 09
Fax: +43-1-961 09 09 50
OSCE Delegation of the Principality of Andorra
Karntnerring 2A/13; 1010 Vienna; Austria
Tel: +43-1-961 09 09
Fax: +43-1-961 09 09 50

Delegation of the Republic of Armenia to the OSCE
Neubaugasse 12-14/1/16; A-1070 Vienna; Austria
Tel: +43-1-522 74 79
Fax: +43-1-522 74 81
Delegation of the Republic of Armenia to the OSCE
Neubaugasse 12-14/1/16; A-1070 Vienna; Austria
Tel: +43-1-522 74 79 29
Fax: +43-1-522 74 81

Federal Ministry for Foreign Affairs
Ballhausplatz 2; 1014 Vienna; Austria
Tel: +43-5-011 50 36 74
Fax: +43-5-011 50 227
Web site: <http://www.bmaa.gv.at>
Permanent Mission of Austria to the OSCE
Schenkenstr. 8-10, 4th floor; 1010 Vienna; Austria
Tel: +43-650-944 24 44

AZERBAIJAN

Mr. Vugar ALIYEV
Head of Division on the Work with Press and
Information Agencies; Department of Public-
Political Issues
E-mail: vugar_aliyev@apparat.gov.az

Mr. Elchin HUSEYINLI
Attache
E-mail: office@azembvienna.at

BELARUS

Mr. Andrei POPOV
Director of Information Directorate
E-mail: press-secretary@mfa.org.by

BELGIUM

Mr. Frank GEERKENS
Head of the OSCE Chairmanship Task Force
E-mail: Frank.Geerkens@diplobel.fed.be

Mr. Omur ORHUN
Ambassador
E-mail: omur.orhun@mfa.gov.tr

Amb. Bertrand DE CROMBRUGGHE
Head of Mission
E-mail: viennaosce@diplobel.be

Mr. Bart LAMMENS
First Secretary
E-mail: bart.lammens@diplobel.be

Mr. Timon Bo SALOMONSON
Second Secretary
E-mail: timon.salomonson@diplobel.be

Ms. Jozefien VAN DAMME
Human Dimension Officer
E-mail: jozefien.vandamme@diplobel.fed.be

BOSNIA AND HERZEGOVINA

Ms. Meliha BASIC
First Secretary
E-mail: meliha@bhmission.at

Administration of the President of the Republic of
Azerbaijan
Prezident Sarayi, Istiqlaliyyet kucesi 19; 1066 Baku;
Azerbaijan
Tel: +994-12-497 42 33
Fax: +994-12-492 24 93
Permanent Mission of the Republic of Azerbaijan to
the OSCE
Huegelgasse 2; 1130 Vienna; Austria
Tel: +43-1-403 13 22
Fax: +43-1-403 13 23

Ministry for Foreign Affairs
19, Lenin Str.; 220030 Minsk; Belarus
Tel: +375-17-227 54 51
Fax: +375-17-227 45 21

OSCE Chairmanship Unit Belgium
OSCE Chairmanship 2006; Karmelietenstraat 15;
1000 Brussels; Belgium
Tel: +32-2-501 81 62
Fax: +32-2-501 30 45
Web site: <http://www.osce2006.be>
Personal Representative on Combating Intolerance
and Discrimination against Muslims
Tel: +90-312-292 22 85
Fax: +90-312-292 27 31
Permanent Mission of Belgium to the OSCE
Wohllebengasse 6/3; 1040 Vienna; Austria
Tel: +43-1-505 63 64
Fax: +43-1-505 03 88
Permanent Mission of Belgium to the OSCE
Wohllebengasse 6/3; 1040 Vienna; Austria
Tel: +43-1-505 63 64 12
Fax: +43-1-505 03 88
Permanent Mission of Belgium to the OSCE
Wohllebengasse 6/3; 1040 Vienna; Austria
Tel: +43-1-505 63 64 18
Fax: +43-1-505 03 88
Federal Public Service, Foreign Affairs, Foreign
Trade and Development Co-operation
19, Rue des Petits Carmes; 1000-Brussels; Belgium
Tel: +32-2-501 30 22
Fax: +32-2-501 30 45

Permanent Mission of Bosnia and Herzegovina to
the United Nations Office at Vienna, OSCE and
other International Organizations, Vienna
Heinrichsgasse 4/3; A-1010 Vienna; Austria

Tel: +43-1-812 22 56
Fax: +43-1-526 47 41

BULGARIA

Ms. Selver YUMER
Third Secretary
E-mail: selver.yumer@bulgvert.at

Permanent Mission of the Republic of Bulgaria to
the OSCE
Rechte Wienzeile 13/1; 1040 Vienna; Austria
Tel: +43-1-585 66 03 07
Fax: +43-1-585 20 01
Web site: <http://www.osce.org/cio/bulgaria>

CANADA

Amb. Barbara GIBSON
Head of Delegation, Permanent Representative
E-mail: barbara.gibson@international.gc.ca

Delegation of Canada to the OSCE
Laurenzerberg 2; 1010 Vienna; Austria
Tel: +43-1-531 38 33 47
Fax: +43-1-531 38 39 15

Mr. Ryan MACCAN
Intern
E-mail: Ryan.maccan@international.gc.ca

Delegation of Canada to the OSCE
Laurenzerberg 2; 1010 Vienna; Austria
Tel: +43-1-531 34 14
Fax: +43-1-531 38 39 15

CYPRUS

Amb. Kornelios KORNELIOU
Permanent Representative
E-mail: permanentmission@cyprus.osce.vienna.at

Permanent Mission of Cyprus to the OSCE
Parkring 20; 1010 Vienna; Austria
Tel: +43-1-513 06 30
Fax: +43-1-513 06 32

Dr. Spyros ATTAS
First Counsellor; Deputy Head of Mission
E-mail: permanentmission@cyprus.osce.vienna.at

Permanent Mission of Cyprus to the OSCE
Parkring 20; 1010 Vienna; Austria
Tel: +43-1-513 06 30
Fax: +43-1-513 06 32

CROATIA

Ms. Mirjana LICHTNER KRTISTIC
Head of Department for Media
E-mail: mirjana.lichtner@min-kulture.hr

Ministry of Culture
Runjaninova 2; 10 000 Zagreb; Croatia
Tel: +385-1-486 63 15
Fax: +385-1-486 62 80
Web site: <http://www.min-kulture.hr>

Ms. Tatijana VUCETIC
Head of Department
E-mail: tvucetic@pravosudje.hr

Ministry of Justice
Dezmanova ulica 6 i 10; 10000 Zagreb ; Croatia
Tel: +385-1-371 06 52
Fax: +385-1-371 06 53
Web site: <http://www.pravosudje.hr>

DENMARK

Mr. John BERNHARD
Ambassador of Denmark to the OSCE
E-mail: johber@um.dk

Delegation of Denmark to the OSCE
Fuehrichgasse 6/3rd floor; 1010 Vienna; Austria
Tel: +43-1-512 02 32
Fax: +43-1-512 23 86

Mr. Mads KJAER
Intern
E-mail: madkja@um.dk

Delegation of Denmark to the OSCE
Fuehrichgasse 6/3rd floor; 1010 Vienna; Austria
Tel: +43-1-512 02 32 24
Fax: +43-1-512 23 86

SPAIN

Amb. Carlos SANCHEZ DE BOADO
Permanent Representative of Spain to the

Permanent Representation of Spain to the OSCE
Argentinierstrasse 34; A-1040 Vienna; Austria

OSCE/Head of Mission
E-mail: esp.osce@mae.es
Mr. Luis Francisco MARTINEZ MONTES
Counsellor
E-mail: luis.martinez@mae.es

Ms. Aranzazu PAGOAGA
E-mail: esp.osce@mae.es

ESTONIA

Ms. Merje STANCIENE
First Secretary
E-mail: Merje.Stanciene@osce.estwien.at

FINLAND / European Union

Amb. Aleksi HARKONEN
Permanent Representative
E-mail: sanomat.wet@formin.fi

Ms. Marjo MAKI-LEPPILAMPI
First Secretary
E-mail: marjo.maki-leppilampi@formin.fi

Mr. Albrecht ROTHACHER
Counsellor
E-mail: albrecht.rothacher@cec.eu.int

FRANCE

Amb. Yves DOUTRIAUX
Head of Delegation
E-mail: catherine.courbarien@diplomatie.gouv.fr

Mr. Didier CANESSE
Counsellor
E-mail: joelle.ledoux@diplomatie.gouv.fr

Ms. Camille JACOB
Intern
E-mail: camille.jacob@diplomatie.gouv.fr

Ms. Marie-Caroline LEROUX
Intern
E-mail: marie-caroline.leroux@diplomatie.gouv.fr

Mr. Gregoire HARTIG
Intern
E-mail: gregoire.hartig@diplomatie.gouv.fr

Tel: +43-1-505 86 00
Fax: +43-1-505 37 73
Permanent Representation of Spain to the OSCE
Argentinierstrasse 34; A-1040 Vienna; Austria
Tel: +43-1-505 86 00 376
Fax: +43-1-505 37 73

Permanent Representation of Spain to the OSCE
Argentinierstrasse 34; A-1040 Vienna; Austria
Tel: +43-1-505 86 00
Fax: +43-1-505 86 00 388

Permanent Mission of the Republic of Estonia to the OSCE
Fuhrichgasse 8/5; 1010 Vienna; Austria
Tel: +43-1-44 51 675
Fax: +43-1-512 19 01 22

Permanent Mission of Finland to the OSCE
Esslinggasse 16/2 Stock; A-1010 Vienna; Austria
Tel: +43-1-535 10 34-35
Fax: +43-1-533 69 82

Permanent Mission of Finland to the OSCE
Esslinggasse 16/2 Stock; A-1010 Vienna; Austria
Tel: +43-664-151 68 84
Fax: +43-1-533 69 82

Delegation of the European Commission to the International Organizations in Vienna
Argentinierstrasse 26/10; A-1040 Vienna; Austria
Tel: +43-1-505 84 11-0
Fax: +43-1-505 84 11-7

Permanent Representation of France to the OSCE
Schwarzenbergplatz 16; 1010 Vienna; Austria
Tel: +43-1-501 82 503
Fax: +43-1-501 82 509

Permanent Representation of France to the OSCE
Schwarzenbergplatz 16; 1010 Vienna; Austria
Tel: +43-1-501 82 503
Fax: +43-1-501 82 502

Permanent Representation of France to the OSCE
Schwarzenbergplatz 16; 1010 Vienna; Austria
Tel: +43-1-501 82 0
Fax: +43-1-501 82 502

Permanent Representation of France to the OSCE
Schwarzenbergplatz 16; 1010 Vienna; Austria
Tel: +43-1-501 82 0
Fax: +43-1-501 82 502

Permanent Representation of France to the OSCE
Schwarzenbergplatz 16; 1010 Vienna; Austria
Tel: +43-1-501 82 0

GREECE

Mr. Louis-Alkiviadis ABATIS
First Counsellor, Deputy Permanent Representative
E-mail: greece.osce@chello.at

Mr. Nikolaos PIPERIGOS
First Secretary
E-mail: greece.osce@chello.at

HUNGARY

Mr. Laszlo SZUCS
Envoy Extraordinary and Minister Plenipotentiary
E-mail: lszucs@huembvie.at

IRELAND

Mr. Brendan MORAN
Ambassador
E-mail: brendan.moran@dfa.ie

Mr. Brendan WARD
Deputy Head of Mission/First Secretary
E-mail: brendan.ward@dfa.ie

Mr. Ronan O'LAOIRE
Attache
E-mail: ronan.olaoire@dfa.ie

ICELAND

Ms. Gerdur B. KJAERNESTED
E-mail: emb.vienna@mfa.is

KAZAKHSTAN

Amb. Doulat KUANYSHEV
Permanent Representative
E-mail: osce@kazakhstan.at

Mr. Vyacheslav DENISENKO
Minister Counsellor
E-mail: vyacheslav.denissenko@kazakhstan.at

Ms. Nelly ABYLKHOZHINA
First Secretary
E-mail: nelly.abylkhozina@kazakhstan.at

Fax: +43-1-501 82 502

Permanent Mission of Greece to the OSCE
Wohllebengasse 9/12; 1040 Vienna; Austria
Tel: +43-1-503 39 30 21
Fax: +43-1-503 39 20

Permanent Mission of Greece to the OSCE
Wohllebengasse 9/12; 1040 Vienna; Austria
Tel: +43-1-503 39 30 15
Fax: +43-1-503 39 20

Hungarian OSCE Mission
Teinfaltstrasse 4/Mezz.; 1010 Vienna; Austria
Tel: +43-1-533 03 76
Fax: +43-1-532 84 82

Permanent Mission of Ireland to the OSCE
Rotenturmstrasse 16-18; A-1010 Vienna; Austria
Tel: +43-1-715 76 98 26
Fax: +43-1-715 57 55

Permanent Mission of Ireland to the OSCE
Rotenturmstrasse 16-18; A-1010 Vienna; Austria
Tel: +43-1-715 76 98
Fax: +43-1-715 57 55

Permanent Mission of Ireland to the OSCE
Rotenturmstrasse 16-18; A-1010 Vienna; Austria
Tel: +43-676-432 01 49
Fax: +43-1-715 57 55

Permanent Mission of Iceland
Naglergasse 2/8; 1010 Vienna; Austria
Tel: +43-1-533 27 71
Fax: +43-1-533 27 74
Web site: <http://www.iceland.org/at>

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57
Fax: +43-1-367 66 57 20

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57
Fax: +43-1-367 66 57 20

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57
Fax: +43-1-367 66 57 20

Mr. Talgat UNAIBAYEV
First Secretary
E-mail: talgat.unaibayev@kazakhstan.at

Ms. Shynar ZAKIYEVA
Attache
E-mail: shynar.zakieva@kazakhstan.at

Mr. Zhaslan NURTAZIN
Attache
E-mail: zhaslan.nurtazin@kazakhstan.at

Mrs. Roza KUANYSHBAYEVA
Director of the Administrative Legal Department

Mr. Nurlan NURGAZIN
Chairman of the Committee

Ms. Kymbat ISKAKOVA
Head of the Unit for Monitoring of Printed Media

LATVIA

Mr. Zigmars ZILGALVIS
Third Secretary of Human Rights Division
E-mail: zigmars.zilgalvis@mfa.gov.lv

LIECHTENSTEIN

Mr. Guenter FROMMELT
Minister
E-mail: guenter.frommelt@vie.rep.llv.li

LITHUANIA

Ms. Lina RUKSTELIENE
Counsellor
E-mail: lina@lithuanianmission.at

LUXEMBOURG

Ms. Beatrice KIRSCH
Deputy Head of Mission
E-mail: vienne.osce1@mae.etat.lu

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57 22
Fax: +43-1-367 66 57 20

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57 13
Fax: +43-1-367 66 57 20

Permanent Delegation of the Republic of
Kazakhstan to the OSCE
Felix-Mottl Strasse 23; 1190 Vienna; Austria
Tel: +43-1-367 66 57 14
Fax: +43-1-367 66 57 20

Ministry of Culture and Information of the Republic
of Kazakhstan
24, Republic Ave., Astana; Kazakhstan
Tel: +7-3172-32 03 36
Fax: +7-3172-33 34 04

Information and Archives Committee of the Culture
and Information Ministry of Kazakhstan
24, Republic Ave.; Astana; Kazakhstan
Web site: <http://www.kazarchives.kz>

Information and Archives Committee of the Culture
and Information Ministry of Kazakhstan
24, Republic Ave.; Astana; Kazakhstan
Tel: +7-3172-20 00 36
Web site: <http://www.kazarchives.kz>

Ministry for Foreign Affairs
Brivibas Blv. 36; LV 1395 Riga; Latvia
Tel: +371-701 61 72
Fax: +371-728 81 21
Web site: <http://www.mfa.gov.lv>

Permanent Delegation of the Principality of
Liechtenstein to the OSCE
Loewelstrasse 8/7; 1010 Vienna; Austria
Tel: +43-1-535 92 11
Fax: +43-1-535 92 11/4

Permanent Mission of the Republic of Lithuania to
the OSCE
Lowengasse 47/8; 1030 Vienna; Austria
Tel: +43-1-710 97 80

Permanent Representation of the Grand-Duchy of
Luxembourg to the OSCE
Wallnerstrasse 2/Stg. 1/2; 1010 Vienna; Austria

Ms. Sonja OURECKY
Assistant
E-mail: vienne.osce1@mae.etat.lu

MALTA

Amb. Walter BALZAN
Head of Delegation
E-mail: walter.balzan@gov.mt

Mr. Pierre Clive AGIUS
Deputy Head of Delegation
E-mail: clive-pierre.agius@gov.mt

Mr. Joseph DEBONO
Member of Delegation
E-mail: joseph.d.debono@gov.mt

NORWAY

Mr. Erling SKJONBERG
Minister Counsellor and Deputy Permanent
Representative
E-mail: chjo@mfa.no

Ms. Tove Therese AALBERG
Adviser, Section of OSCE, Council of Europe and
CFSP Affairs
E-mail: chjo@mfa.no

Mr. Henrik MALVIK
First Secretary
E-mail: chjo@mfa.no

NETHERLANDS

Mr. Robert BOSCH
Charge d'affaire
E-mail: re.bosch@minbuza.nl

Mr. Mark VERSTEDEN
Senior Policy Officer
E-mail: mark.versteden@minbuza.nl

Mrs. Neline KOORNNEEF
First Secretary
E-mail: neline.koornneef@minbuza.nl

POLAND

Tel: +43-1-478 21 68
Permanent Representation of the Grand-Duchy of
Luxembourg to the OSCE
Wallnerstrasse 2/Stg. 1/2; 1010 Vienna; Austria
Tel: +43-1-478 21 68-23
Fax: +43-1-478 26 43

Delegation of Malta to the OSCE
Opernring 5/1; 1010 Vienna; Austria
Tel: +43-1-586 50 10
Fax: +43-1-586 50 109

Delegation of Malta to the OSCE
Opernring 5/1; 1010 Vienna; Austria
Tel: +43-1-586 50 10/17
Fax: +43-1-586 50 109

Delegation of Malta to the OSCE
Opernring 5/1; 1010 Vienna; Austria
Tel: +43-1-586 50 10
Fax: +43-1-586 50 109

Permanent Delegation of Norway to the OSCE
Reisnerstrasse 55-57; 1030 Vienna; Austria
Tel: +43-1-715 66 92
Fax: +43-1-712 65 52

Ministry for Foreign Affairs
P.O. Box 8114 Dep; NO-0032 Oslo; Norway
Tel: + 47-22-24 37 26
Web site: <http://www.odin.dep.no>

Permanent Delegation of Norway to the OSCE
Reisnerstrasse 55-57; 1030 Vienna; Austria
Tel: +43-1-715 66 92 315
Fax: +43-1-712 65 52

Permanent Representation of the Netherlands to the
OSCE
Opernring 5; 1010 Vienna; Austria
Tel: +43-1-589 39 202
Fax: +43-1-589 39 266

Ministry for Foreign Affairs
P.O. Box 20061; 2500 EB The Hague; the
Netherlands
Tel: +31-70-348 41 77
Web site: <http://www.minbuza.nl>

Permanent Representation of the Netherlands to the
OSCE
Opernring 5; 1010 Vienna; Austria
Tel: +43-1-589 39 249
Fax: +43-1-589 39 265

Amb. Jacek BYLICA
Head of Mission
E-mail: oscepl@botschafttrp.at

Mr. Grzegorz KORCZYNSKI
First Secretary
E-mail: g.korczynski@botschafttrp.at

PORTUGAL

Dr. Vera REIS LEAL
E-mail: vreisleal@portdelosce.at

ROMANIA

Mrs. Elisabeta Maria DAVID
Second Secretary
E-mail: elisabeta.david@mae.ro

Ms. Alina POPESCU
Second Secretary
E-mail: popescu@mprom.at

RUSSIAN FEDERATION

Mr. Mikhail LEBEDEV
Deputy Director of Department
E-mail: dgpch@mid.ru

Ms. Tatiana SMIRNOVA
Head of Division
E-mail: dgpch@mid.ru

Ms. Elena DEMCHENKO
Head of Press Office
E-mail: eldem@mail.ru

Mr. Alexander ZINEVICH
Senior Counsellor
E-mail: rfosce@yandex.ru

Ms. Maria KOSTYANAYA
Third Secretary
E-mail: mariarfosce@mail.ru

Mission of Poland to the OSCE
Hietzinger Hauptstrasse 42c; 1130 Vienna; Austria
Tel: +43-1-870 15 804
Fax: +43-1-870 15 331

Mission of Poland to the OSCE
Hietzinger Hauptstrasse 42c; 1130 Vienna; Austria
Tel: +43-1-870 15 320
Fax: +43-1-870 15 331

Permanent Representation of Portugal to the OSCE
Opernring 3/1; 1010 Vienna; Austria
Tel: +43-1-585 50 51 57
Fax: +43-1-585 50 51 66

Ministry for Foreign Affairs
14, Aleea Modrogan, sector 1; Bucharest; Romania
Tel: +40-21-319 21 89
Fax: +40-21-319 23 67

Permanent Mission of Romania to the OSCE
Seilerstatte 17/3rd floor, Top 10-11; 1010 Vienna;
Austria
Tel: +43-1-512 85 66
Fax: +43-1-512 90 57

Ministry of Foreign Affairs; Dept. for Humanitarian
Co-operation and Human Rights
32/34, Smolenskaya-Sennaya sq.; 119200 Moscow;
Russian Federation
Tel: +7-495-244 30 25
Fax: +7-495-244 30 45

Ministry of Foreign Affairs; Dept. for Humanitarian
Co-operation and Human Rights
32/34, Smolenskaya-Sennaya sq.; 119200 Moscow;
Russian Federation
Tel: +7-495-244 30 25
Fax: +7-495-244 30 45

Ministry for Culture and Mass Communications
Moscow; Russian Federation
Tel: +7-495-623 55 87
Fax: +7-495-628 98 03

Permanent Mission of the Russian Federation to the
OSCE
Erzherzog Karl Str. 182; 1220 Vienna; Austria
Tel: +43-1-280 27 62
Fax: +43-1-280 31 90

Permanent Mission of the Russian Federation to the
OSCE
Erzherzog Karl Str. 182; 1220 Vienna; Austria
Tel: +43-1-280 27 62
Fax: +43-1-280 31 90

HOLY SEE

Mr. Thaddeus M. JONES
Officer
E-mail: telecast@pccs.va

Pontifical Council for Social Communications
Palazzo San Carlo; 00120 Vatican City State; Holy
See
Tel: +39-06-69 88 46 22

SERBIA

Mr. Milos JANKOVIC
Assistant Minister
E-mail: misajankovic@gmail.com

Ministry for Culture of the Republic of Serbia
Vlajkovicева 3; 11 000 Belgrade; Serbia
Tel: +381-11-339 84 98
Fax: +381-11-339 89 36

SLOVAKIA

Dr. Peter LIZAK
Head of Mission, Ambassador
E-mail: peter_lizak@mfa.sk

Permanent Mission of Slovakia to the OSCE
Blaasstrasse 34; 1190 Vienna; Austria
Tel: +43-1-368 94 33 300
Fax: +43-1-368 94 33 333

Mr. Albin OTRUBA
First Secretary
E-mail: Albin_Otruba@mfa.sk

Permanent Mission of Slovakia to the OSCE
Blaasstrasse 34; 1190 Vienna; Austria
Tel: +43-1-368 94 33 303
Fax: +43-1-368 94 33 333

SLOVENIA

Ms. Blazka KEPIC
Counsellor; Deputy Head of Mission
E-mail: blazka.kepic@gov.si

Permanent Mission of the Republic of Slovenia to
the OSCE
Gumpendorfer Strasse 11/II/Top 18; 1060 Vienna;
Austria
Tel: +43-1-581 34 08 19
Fax: +43-1-581 34 17

SWEDEN

Ms. Anne DUE
Deputy Head of Delegation
E-mail: anne.due@foreign.ministry.se

Permanent Delegation of Sweden to the OSCE
Postfach 18; 1025 Vienna; Austria
Tel: +43-1-217 53 254
Fax: +43-1-217 53 380

Mr. Christian KAMILL
First Secretary
E-mail: christian.kamill@foreign.ministry.se

Permanent Delegation of Sweden to the OSCE
Postfach 18; 1025 Vienna; Austria
Tel: +43-1-217 53 253
Fax: +43-1-217 53 380

SWITZERLAND

Amb. Rudolf SCHALLER
Head of Delegation
E-mail: rudolf.schaller@eda.admin.ch

Swiss Delegation to the OSCE
Rooseveltplatz 4-5/8; A-1090 Vienna; Austria
Tel: +43-1-505 89 25 18
Fax: +43-1-505 89 255

Mr. Rolf STUECHELI
Deputy Head/Minister
E-mail: rolf.stuecheli@eda.admin.ch

Swiss Delegation to the OSCE
Rooseveltplatz 4-5/8; A-1090 Vienna; Austria
Tel: +43-1-505 89 25-22
Fax: +43-1-505 89 255

CZECH REPUBLIC

Amb. Ivan POCUCH
Head of Delegation
E-mail: czechmission.vienna@aon.at

Permanent Mission of the Czech Republic to the
OSCE
Penzingerstrasse 11-13; 1140 Vienna; Austria
Tel: +43-1-89 95 81 40
Fax: +43-1-894 57 98

Ms. Nadizda HOLIKOVA
Counsellor
E-mail: czechmission.vienna@aon.at

Permanent Mission of the Czech Republic to the
OSCE
Penzingerstrasse 11-13; 1140 Vienna; Austria
Tel: +43-1-89 95 81 40
Fax: +43-1-894 57 98

TURKEY

Amb. Yusuf BULUC
Permanent Representative of Turkey to the OSCE
E-mail: turk.del@agit-osce.at

Permanent Mission of Turkey to the OSCE
Zieglergasse 5/2; 1070 Vienna; Austria
Tel: +43-1-523 38 05
Fax: +43-1- 523 38 07
Web site: <http://www.mfa.gov.tr>

Mr. Mustafa TURAN
Counsellor
E-mail: mturan@mfa.gov.tr

Permanent Mission of Turkey to the OSCE
Zieglergasse 5/2; 1070 Vienna; Austria
Tel: +43-1-523 38 05 15
Fax: +43-1-523 39 07
Web site: <http://www.mfa.gov.tr>

UKRAINE

Amb. Volodymyr YEL'CHENKO
Head of Mission
E-mail: uadel@ukr.at

Permanent Mission of Ukraine to the OSCE
Naaffgasse 23; 1180 Vienna; Austria
Tel: +43-1-479 71 72 11
Fax: +43-1-479 71 72 47

Mr. Oleh HERASYMENKO
Deputy Head of Mission
E-mail: o.herasymenko@ukr.at

Permanent Mission of Ukraine to the OSCE
Naaffgasse 23; 1180 Vienna; Austria
Tel: +43-1-479 71 72 39
Fax: +43-1-479 71 72 47

Mr. Yevhen TSYMBALIUK
Counsellor
E-mail: yt@ukr.at

Permanent Mission of Ukraine to the OSCE
Naaffgasse 23; 1180 Vienna; Austria
Tel: +43-1-479 71 72 37
Fax: +43-1-479 71 72 47

OSCE Mediterranean Partners for Co-operation

ALGERIA

Mr. Mohamed OUZEROUHANE
Alternate of the Head of the Mission, Attache
E-mail: office@algerian-embassy.at

Permanent Mission of the People's Democratic
Republic of Algeria
Rudolfingerstrasse 18; 1190 Vienna; Austria
Tel: +43-1-369 88 53
Fax: +43-1-369 88 56

OSCE Partners for Co-operation

JAPAN

Mr. Junya NAKANO
First Secretary
E-mail: wi214@embjap.at

Embassy of Japan in Vienna
Hessgasse 6; 1010 Vienna; Austria
Tel: +43-1-531 92 214
Fax: +43-1-535 27 04

REPUBLIC OF KOREA

Mr. Tae-ick CHO
First Secretary
E-mail: ticho90@mofat.go.kr

Embassy of the Republic of Korea
Gregor-Mendel-Str. 25; 1180 Vienna; Austria
Tel: +43-1-478 19 91

International Organizations

- 1 European Monitoring Centre on Racism and Xenophobia
Rahlgasse 3; A-1060 Vienna; Austria
Web site: <http://eumc.eu.int>

Mr. Andreas ACCARDO
Administration Communication & External Relations
E-mail: andreas.accardo@eumc.eu.int

Tel: +43-1-580 30 33

- 2 UN Office on Drugs and Crime
Vienna International Centre, P.O. Box 500; A-1400 Vienna; Austria
Web site: <http://www.unodc.org>

Mr. Eun Joung SHIM
Intern, Advocacy Section
E-mail: eunjoung.shim@unodc.org

Tel: +43-1-260 60 45 32

Fax: +43-1-260 60 59 31

- 3 UNESCO
1, rue Miollis; 75732 Paris Cedex 15; France

Ms. Sylvie COUDRAY
Programme Specialist
E-mail: s.coudray@unesco.org

Tel: +33-1-45 68 42 12

Fax: +33-1-45 68 55 84

- 4 United Nations High Commissioner for Refugees; Branch Office in Austria
P.O. Box 550; A-1400 Vienna; Austria
Web site: <http://www.unhcr.at>

Mr. Roland SCHOENBAUER
Spokesperson
E-mail: schoenb@unhcr.org

Tel: +43-1-260 60 53 07

Fax: +43-1-263 37 48

Ms. Yerivan SALEH
Intern
E-mail: ausosce@unhcr.org

Tel: +43-1-260 60 55 07

Fax: +43-1-263 37 48

OSCE Institutions/Field Missions

- 1 OSCE Secretariat
Kaerntner Ring 5-7, 4th floor; 1010 Vienna; Austria
Web site: <http://www.osce.org>

Ms. Isabelle DE RUYT
Advisor - Office of the Secretary-General
E-mail: isabelle.deruyt@osce.org

Tel: +43-664-859 08 20

- 2 OSCE Conflict Prevention Centre
Kaerntner Ring 5-7, 4th floor; 1010 Vienna; Austria
Web site: <http://www.osce.org>

Ms. Kathleen SAMUEL
Senior Mission Programme Officer
E-mail: kathleen.samuel@osce.org

Tel: +43-664-326 97 88

Fax: +43-1-514 36 96

Mr. Alexander VINNIKOV
Mission Programme Officer for Central Asia

Tel: +43-1-514 36 720

Fax: +43-1-514 36 96

E-mail: alexander.vinnikov@osce.org

3 OSCE Representative on Freedom of the Media
Kaerntner Ring 5-7, 2.DG; 1010 Vienna; Austria

Mr. Miklos HARASZTI OSCE Representative on Freedom of the Media E-mail: joanna.jinks@osce.org	Tel: +43-1-512 21 45 15 Fax: +43-1-512 21 45 9
Ms. Heidi SMITH Senior Adviser E-mail: heidi.smith@osce.org	Tel: +43-1-514 36 62 05
Mr. Roland BLESS Senior Adviser E-mail: roland.bless@osce.org	Tel: +43-1-512 21 45 12
Mr. Alexander BOLDYREV Senior Adviser E-mail: alexander.boldyrev@osce.org	Tel: +43-1-51 43 60
Ms. Hanna VUOKKO Adviser E-mail: hanna.vuokko@osce.org	Tel: +43-1-514 36 62 14 Fax: +43-1-514 36 62 60
Ms. Ana KARLSREITER Adviser E-mail: ana.karlsreiter@osce.org	Tel: +43-1-514 36 62 41 Fax: +43-1-512 21 45 9
Mr. Christian MOELLER Project Officer E-mail: christian.moeller@osce.org	Tel: +43-1-512 21 45 13 Fax: +43-1-512 21 45 9
Mr. Arnaud AMOUROUX Project Co-ordinator E-mail: arnaud.amouroux@osce.org	Tel: +43-1-512 21 45 17
Mr. Illia DOHEL Research Assistant E-mail: ilia.dohel@osce.org	Tel: +43-1-514 36 62 00
Ms. Valerie CRAB Liaison Officer E-mail: valerie.crab@osce.org	Tel: +43-1-512 21 45 0
Ms. Adeline HULIN Assistant Project Officer E-mail: adeline.hulin@osce.org	Tel: +43-1-512 21 45 0
Ms. Joanna JINKS Senior Administrative Assistant E-mail: joanna.jinks@osce.org	Tel: +43-1-512 21 45 11 Fax: +43-1-512 21 45 9
Ms. Anja Christin SCHWABEDAL Project Assistant E-mail: anja.schwabedal@osce.org	Tel: +43-1-512 21 45 15 Fax: +43-1-512 21 45 9
Ms. Nora KOVACS Programme Secretary E-mail: nora.kovacs@osce.org	Tel: +43-1-514 36 250
Ms. Anna SADKOVA Temporary Clerk E-mail: anna.sadkova@osce.org	Tel: +43-1-512 21 45 0

Ms. Nigina NIYAZOV
Intern

E-mail: INT-FOM@osce.org

Mr. Hristijan GJOGIEVSKI

Intern

E-mail: INT-FOM2@osce.org

4 OSCE Presence in Albania

Rruga Donika Kastrioti, Villa 6; Tirana; Albania

Web site: <http://www.osce.org/Albania/>

Mr. Fabiola HAXHILLARI
Spokesperson/National Media Development Officer

E-mail: fabiola.haxhillari@osce.org

5 OSCE Centre in Almaty

Tole Bi 67; 480091 Almaty; Kazakhstan

Web site: <http://www.osce.org/almaty>

Ms. Aida YULDASHEVA

Assistant to Political Officer

E-mail: Aida.Yuldasheva@osce.org

6 OSCE Office in Baku

4 Magomayev lane; Baku; Azerbaijan

Web site: <http://www.osce.org/baku>

Mr. Ulvi AKHUNDLI

Media and Political Adviser

E-mail: Ulvi.Akhundly@osce.org

Ms. Ingrid Angela GOSSINGER

Democratization Officer

E-mail: ingrid.gossinger@osce.org

Mr. Elshad FARZALIYEV

Senior Democratization Assistant

E-mail: EFarzaliyev@osce.org

7 OSCE Mission to Bosnia and Herzegovina

Fra Andela Zvidovica 1; 71000 Sarajevo; Bosnia and Herzegovina

Web site: <http://www.oscebih.ba>

Ms. Alexandra GEORGE

Spokesperson/Director of Press and Public Information

E-mail: alexandra.george@osce.org

8 OSCE Mission to Croatia

Florijana Andraseca 14; 10000 Zagreb; Croatia

Web site: <http://www.osce.org/croatia>

Ms. Antonella CERASINO

Spokesperson and Head of Media and Public Affairs Unit

E-mail: antonella.cerasino@osce.org

9 OSCE Centre in Dushanbe

12, Zikrullo Khojaev Str.; 734003 Dushanbe; Tajikistan

Web site: <http://www.osce.org>

Tel: +43-12 512 21 45 0

Tel: +43-1-512 21 45 0

Tel: +355-69-202 34 85

Fax: +355-42-442 04

Tel: +7-3272-79 37 62

Fax: +7-3272-79 43 88

Tel: +994-503-12 57 07

Fax: +994-12-497 23 77

Tel: +994-12-497 23 73

Fax: +994-12-497 23 77

Tel: +994-12-497 23 73

Fax: +994-12-497 23 77

Tel: +387-61-14 75 21

Fax: +387-33-44 24 79

Tel: +385-91-198 89 04

Ms. Zebiniso NAJMEDINOVA
National Public Information Officer
E-mail: Zebo.Najmiddinova@osce.org

Tel: +992-372-224 33 38, 221 40 63
Fax: +992-372-251 01 37

10 OSCE Mission to Georgia
Krtsanisi Governmental Residence N5, Krtsanisi Street; 0114 Tbilisi; Georgia,
Web site: <http://www.osce.org/georgia>

Mr. Zurab KHRIKADZE
Senior Programme Assistant / Freedom of the Media
E-mail: zurab.khrikadze@osce.org

Tel: +995-32-20 23 03 ext. 343
Fax: +995-32-20 23 05

11 OSCE Mission in Kosovo
Beogradska 29; 38000 Pristina, Kosovo; Serbia
Web site: <http://www.osce/kosovo>

Ms. Zenet MUJIC
Programme Officer, Media Unit
E-mail: zenet.mujic@osce.org

Tel: +377-44-64 59 06

12 OSCE Office in Minsk
11, Prospect Gazety Pravda; 220116 Minsk; Belarus
Web site: <http://www.osce.org.by>

Dr. Vahram ABADJIAN
Deputy Head of Office
E-mail: Vahram.Abadjian@osce.org

Tel: +375-17-272 34 96
Fax: +375-17-272 34 98

13 OSCE Mission to Montenegro
Bulevar Sv. Petra Cetinjskog bb; 81 000 Podgorica; Montenegro
Web site: <http://www.osce.org/montenegro>

Ms. Radka BETCHEVA
Media Officer
E-mail: radka.betcheva@osce.org

Tel: +381-69-33 08 13
Fax: +381-81-40 64 31

14 OSCE Mission to Serbia
Cakorska 1; 11 000 Belgrade; Serbia
Web site: <http://www.osce.org/serbia>

Ms. Nevena RUZIC
Co-ordinator of the Freedom of the Media Section
E-mail: nevena.ruzic@osce.org

Tel: +381-63-21 36 35
Fax: +381-11-360 62 92

15 OSCE Spillover Monitor Mission to Skopje
QBE Makedonija Building, 11 Oktomvri Str. n.25; MK-1000 Skopje; the former Yugoslav Republic of
Macedonia
Web site: <http://www.osce.org/skopje>

Ms. Maria DOTSENKO
Press and Public Information Officer
E-mail: maria.dotsenko@osce.org

Tel: +389-70-25 55 84

16 OSCE Project Co-ordinator in Ukraine
16, Striletska Str., Office 55; 01034 Kyiv; Ukraine
Web site: <http://www.osce.org.ua>

Ms. Tetiana KOPROWICZ
Media Advisor
E-mail: Tatiana.Vorozhko@osce.org

Tel: +380-50-387 30 63
Fax: +380-44-492 03 84

17 OSCE Office in Yerevan
89 Teryan St.; 375009 Yerevan; Armenia
Web site: <http://www.osce.org/yerevan>

Mr. Tsovinar AREVYAN
Senior Democratization Assistant
E-mail: Tsovinar.Arevyan@osce.org

Tel: +374-10-54 10 62/63/64/65
Fax: +374-10-54 10 61

Non-Governmental Organizations

1 ANEM - Association of Independent Electronic Media
13a Marsala Birjuzova Str.; Belgrade; Serbia

Ms. Anita IVANOVIC
Lawyer
E-mail: anita.ivanovic@zslawoffice.co.yu

Tel: +381-641-69 98 37
Fax: +381-11-63 59 42

2 Agence France-Press, Vienna
Ares Tower 17th floor, Donau-City-Strasse 11; A-1220 Vienna; Austria

Mr. Serge MAILLARD
Journalist
E-mail: afpvie@afp.com

Tel: +43-1-269 63 00
Fax: +43-1-269 63 00 20

3 Albanian Media Institute
Rruga Gjin Bue Shpata, Nr.8.; Tirana; Albania

Mr. Remzi LANI
Director
E-mail: rlani@institutemedia.org

Tel: +355-42-298 00
Fax: +355-42-298 00

4 American Bar Association CEELI; Kazakhstan
27 "A" Akmediyarova Str.; 050059 Almaty; Kazakhstan

Mr. Sergey VLASSENKO
Senior Lawyer; Media Support Centre
E-mail: svlassenko@msc-law.kz

Tel: +7-300-353 45 97
Fax: +7-3272-54 15 03

5 Article 19
6-8 Amwell Street; London EC1R 1UQ; United Kingdom
Web site: <http://www.article19.org>

Dr. Agnes CALLAMARD
Executive Director
E-mail: agnes@article19.org
Ms. Luitgard HAMMERER
Freedom of Expression Consultant, Vienna

Tel: +44-207-278 92 92
Fax: +44-207 278 76 60

Tel: +43-699-813 16 311

E-mail: luitgard@article19.org

6 Belarusian Association of Journalists
17-304, Pl. Svabody; 220030 Minsk; Belarus
Web site: <http://baj.ru>

Ms. Zhanna LITVINA
Head of the Association
E-mail: baj@baj.ru
Mr. Andrei BASTUNETS
Deputy Chairman
E-mail: baj@baj.ru
Mr. Vyachaslau KHADASOUSKI
Journalist; Member of Board of Directors
E-mail: baj@baj.ru
Mr. Uladzimir YANUKEVICH
Member of Council
E-mail: baj@baj.ru

Tel: +375-17-203 63 66
Fax: +375-17-203 63 66
Tel: +375-8029-620 66 16
Fax: +375-17-226 70 98
Tel: +375-8029-669 85 62
Fax: +375-17-226 70 98
Tel: +375-8029-632 97 18
Fax: +375-17-226 70 98

7 Belarusian Helsinki Committee
68 - 1201, Libkneht Str.; 220036 Minsk; Belarus
Web site: <http://bhc.unibel.by>

Mr. Dzmitry MARKUSHEUSKI
Press Secretary
E-mail: belhelcom@user.unibel.by

Tel: +375-17-222 48 00
Fax: +375-17-222 48 01

8 British Council
Siebensterngasse 21; 1070 Vienna; Austria
Web site: <http://www.britishcouncil.at>

Mr. Will TODD
Director
Ms. Vera HARTL
Information and Projects Manager
E-mail: vera.hartl@britishcouncil.at

Tel: +43-1-533 26 16
Fax: +43-1-533 26 16 85
Tel: +43-1-533 26 16 84
Fax: +43-1-533 26 16 85

9 British Council
Spring Gardens; London W1; United Kingdom

Mr. Ehsan MASOOD
Writer and Journalist
E-mail: EhsanMasood@aol.com

Tel: +44-7958-61 47 75

10 Canadian Radio-Television and Telecommunications Commission
Ottawa, Ontario K1A ON2; Canada
Web site: <http://www.crtc.gc.ca/eng/welcome.htm>

Ms. Martine VALLEE
Director of Social Policy
E-mail: martine.vallee@crtc.gc.ca

Tel: +1-877-249 27 82
Fax: +1-819-994 02 18

11 Caucasian Centre for Human Rights and Conflict Studies
Postal address: P.O. Box 228; 380008-Tbilisi; Georgia, Visiting address: Petriashvili Str. 20; Tbilisi;

- Georgia
Web site: <http://www.ihf-hr.org>
- Mr. Ramaz REKHVIASHVILI
Chairman
E-mail: caucasia@geo.net.ge
- Tel: +995-32-29 34 88
Fax: +995-32-29 34 88
- 12 Center for Independent Journalism
Bdul. Regiba Elisabeta, nr. 32, et. 1, sector 5; Bucharest; Romania
Web site: <http://www.cji.ro>
- Ms. Ioana AVADANI
Executive Director
E-mail: ioana@cji.ro
- Tel: +40-21-311 13 75
Fax: +40-21-311 13 78
- 13 Center of Administrative, Economic and Legal Initiatives "Strategy" (Strategy Center)
B. Dmitrovka 12/1-1; 107 031 Moscow; Russian Federation
- Mr. Andrey BALABAN
Legal Expert
E-mail: andba@mail.ru
- Tel: +7-495-629 51 64
Fax: +7-495-692 00 89
- 14 Central Asian and Southern Caucasus Freedom of Expression Network (CASCFEN)
33, Khagani Str.; 370000 Baku; Azerbaijan
Web site: <http://www.cascfen.org>
- Mr. Azer HASRET
Director
E-mail: hasret2013@yahoo.com
- Tel: +994-12-47 45 59
Fax: +994-12-47 45 61
- 15 Central European University
Verecke utca 102/a; 1025 Budapest; Hungary
- Mr. Slava L. SHAYMAN
E-mail: slavashayman@yahoo.com
- Tel: +36-30-914 70 65
- 16 Church of Scientology; Human Rights Office
91 rue de la Loi; 1040 Brussels; Belgium
Web site: <http://www.scientology-europe.org>
- Mr. Martin WEIGHTMAN
Human Rights Director
E-mail: martinweightman@compuserve.com
- Tel: +32-2-231 15 96
Fax: +32-2-280 15 40
- 17 Communications Regulatory Agency
Mehmeda Spahe 1; 71 000 Sarajevo; Bosnia and Herzegovina
- Ms. Dunja MIJATOVIC
Director Broadcasting
E-mail: dmijatovic@rak.ba
- Tel: +387-33-25 06 00
Fax: +387-33-71 30 80
- 18 Danish Helsinki Committee
Gothersgade 89; 1123 Copenhagen K; Denmark
- Mr. Niels GROTH
Jurist
E-mail: grothniels@hotmail.com
- Tel: +45-33-91 81 10

- 19 Flemish Union for Professional Journalists (VVJ)
Wetstraat 55; B-1040 Brussels; Belgium
Web site: <http://www.journalist.be>
Mr. Pol DELTOUR Tel: +32-2-235 22 70
National Secretary Fax: +32-2-235 22 72
E-mail: pol.deltour@journalist.be
- 20 Freedom of Information Center of Armenia
Charentsi 1B, Apt. 6; Yerevan; Armenia
Web site: <http://www.foi.am>
Ms. Shoushan DOYDOYAN Tel: +374-91-40 78 36
President
E-mail: shushvard@yahoo.com
- 21 French Institute for Culture
Wahringerstrasse 30; 1090 Vienna; Austria
Ms. Emilie MONNIET Tel: +43-1-502 75 322
E-mail: culture@institut.fr.at Fax: +43-1-502 75 397
- 22 Fundacja im. Stefana Batorego
ul. Sapiezynska 10a ; 00-215 Warsaw; Poland
Web site: <http://www.batory.org.pl>
Mr. Andrzej KRAJEWSKI Tel: +48-22-646 22 40
Public TV Monitoring Organizer
E-mail: arozicka@batory.org.pl
- 23 Helsinki Foundation for Human Rights
Zgoda 11 Str.; 00-018 Warsaw; Poland
Mr. Lenur KERYMOV Tel: +48-22-556 44 61
Program Co-ordinator Fax: +48-22-828 10 08
E-mail: L.Kerymov@hfhropol.waw.pl
- 24 ITN
200 Gray's Inn Road; London WC1X 8XZ; United Kingdom
Web site: <http://www.itn.co.uk>
Mr. John BATTLE Tel: +44-207-430 47 66
Head of Compliance Fax: +44-207-430 42 11
E-mail: john.battle@itn.co.uk
- 25 Independent Association of Journalists of Serbia
Resavska 28; Belgrade; Serbia
Mr. Dragan JANJIC Tel: +381-63-35 96 12
Editor-in-Chief Fax: +381-11-360 24 00
E-mail: jajnicdragan@yahoo.com
- 26 Institute for War and Peace Reporting
7/1, 2-nd Vera Lane; 0179 Tbilisi; Georgia
Web site: <http://www.iwpr.net>

Ms. Margarita AKHVLEDIANI
Caucasus Programme Director & Regional Editor
E-mail: iwpr@caucasus.net

Tel: +995-99-51 93 47, +995-32-98 99
70
Fax: +995-32-98 94 80

27 Institute on Religion and Public Policy
1620 I Street, NW; Suite LL10; Washington, DC 20006; U.S.A.
Web site: <http://www.religionandpolicy.org>

Mr. Joseph GRIEBOSKI
President
E-mail: grieboski@religionandpolicy.org

Tel: +1-202-835 87 60
Fax: +1-202-835 87 64

Dr. Kathy BIERY
Advisory Board

Tel: +1-540-432 07 09

E-mail: Kaboff@AOL.com

Mr. Kevin FAHEY

Tel: +1-202-835 87 60

Director of Communications

E-mail: fahey@religionandpolicy.org

Mr. Alfred ROMAINE

Tel: +1-240-580 02 80

Board of Directors

E-mail: alromaine@gmail.com

28 International Freedom Network
27 Old Gloucester Street; London WC1N 3XX; United Kingdom

Mr. Rachid NOUGMANOV

Tel: +33-6-08 70 12 14

General Director

Fax: +44-870-134 86 57

E-mail: rachid@nougmanov.com

29 International Helsinki Federation for Human Rights
Wickenburggasse 14/7; A-1080 Vienna; Austria
Web site: <http://www.ihf-hr.org/index.php>

Dr. Aaron RHODES

Tel: +43-1-408 88 22

Executive Director

Fax: +43-1-408 8822-50

E-mail: office@ihf-hr.org

Ms. Lamija MUZUROVIC

Tel: +43-1-408 88 22-42

Project Co-ordinator

Fax: +43-1-408 88 22-50

E-mail: muzurovic@ihf-hr.org

Mr. Joachim FRANK

Tel: +43-1-408 88 22

Project Co-ordinator

Fax: +43-1-408 88 22 50

E-mail: frank@ihf-hr.org

Ms. Ann-Sofie NYMAN

Tel: +43-1-408 88 22 32

Researcher

Fax: +43-1-408 8822-50

E-mail: nyman@ihf-hr.org

Mr. Pavel BYKOUSKI

Tel: +375-29-406 24 87

E-mail: bykowski@br.minsk.by

Ms. Laure ALMAIRAC

Tel: +43-1-408 88 22

Intern

Fax: +43-1-408 88 22 50

E-mail: ihf_intern@yahoo.com

Mr. Piotr KORZYNSKI

Tel: +43-1-408 88 22

Intern

Fax: +43-1-408 88 22 50

E-mail: office@ihf-hr.org

30 International Press Institute
Spiegelgasse 2/29; A-1010 Vienna; Austria
Web site: <http://www.freemedia.at>

Mr. Johann P. FRITZ
Director

Tel: +43-1-512 90 11
Fax: +43-1-512 90 14

Mr. Michael KUDLAK
Deputy Director

Tel: +43-1-512 90 11
Fax: +43-1-512 90 14

E-mail: mkudlak@freemedia.at

Ms. Diana ORLOVA
Press Freedom Adviser

Tel: +43-1-512 90 11
Fax: +43-1-512 90 14

E-mail: dorlova@freemedia.at

Ms. Catherine POWER
Press Freedom Adviser

Tel: +43-1-512 90 11
Fax: +43-1-512 90 14

E-mail: cpower@freemedia.at

31 International Renaissance Foundation
vul. Artema, 46; 04053 Kyiv; Ukraine
Web site: <http://www.irf.kiev.ua>

Mr. Roman ROMANOV
Rule of Law Program Manager

Tel: +380-44-246 83 63
Fax: +380-44-216 76 29

E-mail: romanov@irf.kiev.ua

32 International Romani Union
c/o Romano Centro, Hofmannsthalgasse 2/2; 1030 Vienna; Austria

Ms. Fevzije BAHAR
Spokesperson

Tel: +43-699-10 13 83 60

E-mail: frauenwelten@chello.at

33 Journalist Union "Yeni Nesie" (New Generation)
Metbuat Avenue, 529 block; Baku; Azerbaijan

Mr. Arif ALIYEV
Chairman

Tel: +994-12-498 23 98
Fax: +994-12-498 45 18

E-mail: arif@azintex.com

34 Kosovo Roma and Ashkali Forum - KRAF
S. Plementina, Kosovo; Serbia

Mr. Daut CULJANDJI
Member of KRAF

Tel: +377-44-22 91 92
Fax: +381-38-24 90 75

E-mail: tukidiki@yahoo.com

35 Lithuanian Journalism Centre
Maironio 7; LT-01124 Vilnius; Lithuania

Ms. Renita PALECKIENE
Director

Tel: +370-65-54 41 71
Fax: +370-5-262 47 80

E-mail: intermedia@ljc.omnitel.net

36 MEMO 98
Gundulicova 14; 811 05 Bratislava; Slovakia

Mr. Rasto KUZEL
Executive Director
E-mail: kuzel@memo98.sk

Tel: +421-905 49 35 91
Fax: +421-2-54 41 03 09

37 Macedonian Institute for Media
Porta Bunjakovec A2/1; 1000 Skopje; the former Yugoslav Republic of Macedonia

Ms. Aleksandra TEMENUGOVA
Training Co-ordinator
E-mail: temenugova@mim.org.mk

Tel: +389-70-35 98 76
Fax: +389-2-329 04 83

38 Magazine "DE JOURNALIST"
Hardtgasse 15/22; A-1190 Vienna; Austria
Web site: <http://www.dejournalist.nl>

Mr. Eric WILLEMSSEN
Journalist
E-mail: eric.willemsen@chello.at

Tel: +43-676-961 37 54

39 Masters of Arts in International Studies Organization (MISO)
8347 Lakeview Ave.; Lenexa, KS 66219; U.S.A.
Web site: <http://groups.yahoo.com/group/miso>

Ms. Janet MASON
President
E-mail: janmason@ku.edu

Tel: +1-913-599 67 73; cell phone: +1-913-638 69 94

40 Media Centre in Sarajevo
Kolodvorska 3; 71000 Sarajevo; Bosnia and Herzegovina

Ms. Adla ISANOVIC
Researcher / Analyst
E-mail: adla@media.ba

Tel: +387-33-71 58 40
Fax: +387-33-71 58 40

41 Media Commissioner Institute Public Fund
340 Frunze Str.; 720011 Bishkek; Kyrgyzstan

Mr. Ilim KARYPBEKOV
Director
E-mail: ilim@media.kg

Tel: +996-312-68 07 40
Fax: +996-312-68 15 99

42 Media Development Center
6 Triaditsa St.; Sofia 1000; Bulgaria
Web site: <http://www.mediacenterbg.org>

Mr. Ognian ZLATEV
Managing Director
E-mail: ozlatev@mediacenterbg.org

Tel: +359-88-875 97 74
Fax: +359-2-988 92 65

43 Media Rights Institute
145, A. Guliyev Str.; Baku; Azerbaijan

Mr. Rashid HAJILI
Director
E-mail: rashid@mediarights.az

Tel: +994-12-484 06 23
Fax: +994-12-484 06 23

- 44 Movimiento por la Paz el Desarme y la Libertad (MPDL)
c/Martos 15; Madrid; Spain
Web site: <http://www.mpd.org>
Mr. Voces GARCIA Tel: +43-6998-157 23 42
Economist
E-mail: voces25@hotmail.com
- 45 Mykolaiv Regional Committee "Legislator-I"
1 School str., off. 23; Mykolaiv; Ukraine
Dr. Ayida BOLIVAR Tel: +380-632-92 07 53
Executive Director Fax: +380-51-256 74 62
E-mail: ayidabolivar@gmail.com
- 46 NGO Society
50/2 Mushaka str.; 79011 Lviv; Ukraine
Mr. Yaroslav PROKOPIV Tel: +380-0673-53 39 25
Project Manager
E-mail: jarek1969@ukr.net
- 47 National Association of Independent Media of Tajikistan
apt.415-416, Huseynzoda street, 34; Dushanbe; Tajikistan
Web site: <http://www.nansmit.org>
Mr. Abdufattokh VOKHIDOV Tel: +992-372-223 30 58
Head of Monitoring Service Fax: +992-372-221 37 11
E-mail: nansmit@tojikiston.com
- 48 Newspaper "24 Saati" (24 Hours)
51 I.Gamrekeli Str.; 0186 Tbilisi; Georgia
Mr. Paata VESHAPIDZE Tel: +995-32-20 24 24
Managing Editor Fax: +995-32-31 93 86
E-mail: pveshapidze@24hours.ge
- 49 Newspaper "KURIER"
Lindengasse 52; A-1070 Vienna; Austria
Web site: <http://www.kurier.at>
Ms. Alexandra SEIBEL Tel: +43-1-521 00 27 61
Journalist Fax: +43-1-521 00 27 17
E-mail: alexandra.seibel@kurier.at
- 50 Newspaper "Nasha Niva"
Post Box 537; 220050 Minsk; Belarus
Mr. Andrej DYNKO Tel: +375-17-284 73 29
Editor-in-Chief
E-mail: nn@promedia.by
- 51 Newspaper "Panorama"
15, Respublica Ave.; 050013 Almaty; Kazakhstan
Mr. Yaroslav RAZUMOV Tel: +7-300-314 80 23
Journalist
E-mail: y1771@mail.ru

- 52 Newspaper "Respublika Weekly"
2, Satpaeva Str., office 17; 480 100 Almaty; Kazakhstan
Web site: <http://www.respublika.kz>
Ms. Irina PETRUSHOVA Tel: +7-3272-64 26 17
Editor-in-Chief
E-mail: kris@yahha.com
- 53 Newspaper "Vitebski Kurier"
ul. Gagarina 24; Vitebsk; Belarus
Mr. Uladzimir BAZAN Tel: +375-212-36 54 59
Editor-in-Chief
E-mail: vitebsk_elen@mail.ru
- 54 Newspaper "Zerkalo"
1, Sharitzade Str.; Baku; Azerbaijan
Mr. Elchin SHIKHLINSKIY Tel: +994-12-497 65 31
Editor-in-Chief Fax: +994-12-497 71 23
E-mail: elchin@zerkalo.az
- 55 Open Society Foundation
100 Cambridge Grove; London W6 0LE; United Kingdom
Dr. Morris LIPSON Tel: +44-207-031 02 15
Senior Legal Advisor
E-mail: Morris.Lipson@osf-eu.org
Mr. Marius DRAGOMIR Tel: +420-607-74 37 16
Media Consultant
E-mail: mdragomir@osieurope.org
- 56 Open Society Institute - EUMAP
Nador 11, 4th floor; H-1051 Budapest; Hungary
Mr. Rasto KUZEL
Dr. Snjezana MILIVOJEVIC Tel: +381-11-309 29 11
Associate Professor Fax: +381-11-249 15 01
E-mail: snjezana.milivojevic@fpm.bg.ac.yu
Mr. Mark THOMPSON Tel: +44-1865-76 32 84
Consultant
E-mail: manati@osieurope.org
Mr. Giulio Enea VIGEVANI Tel: +39-02-545 79 42
Professor of Law Fax: +39-02-546 65 64
E-mail: giulio.vigevani@unimib.it
- 57 PRO MEDIA
bul. Kuzman Josifovski Pitu br. 19/5-27; Skopje; the former Yugoslav Republic of Macedonia
Mr. Klime BABUNSKI Tel: +389-2-246 03 23; +389-70-27 82
President 85
E-mail: mkklime@mt.net.mk Fax: +389-2-246 03 23
- 58 Privacy International

- 6-8 Amwell Street; London EC1R 1UQ; United Kingdom
 Web site: <http://www.privacyinternational.org>
- Mr. David BANISAR Tel: +44-794-777 82 47
 Director, Freedom of Information Project
 E-mail: d.banisar@privacy.org
- 59 Public Association "Internews" in Kyrgyzstan
 340, Frunze Str.; Bishkek; Kyrgyzstan
 Web site: <http://www.internews.kg>
- Ms. Elvira SARIEVA Tel: +996-312-68 20 30
 Managing Director Fax: +996-312-68 05 99
 E-mail: elvira@internews.kg
- 60 Republican Association of Journalists "Media Alliance"
 69/2-30, Mayakovskogo; Dushanbe; Tajikistan
- Mr. Zafar ABDULLAEV Tel: +992-372-227 10 84
 Member of Observation Board Fax: +992-372-223 28 22
 E-mail: ztadjibaeva@yahoo.com
- 61 Republican Party of Turkmenistan in exile
 Seisgasse 6; 1040 Vienna; Austria
 Web site: <http://www.tmrepublican.org>
- Mr. Boris SHIKHMURADOV Tel: +7-926-234-60-50
 Human Rights and Legal Officer
 E-mail: office@tmrepublican.org
- Mrs. Tatiana SHIKHMURADOVA Tel: + 7-926-234 60 50
 Women's Rights Projects Co-ordinator
 E-mail: boshikh@tmrepublican.org
- 62 Rrom Press News Agency - NEVIPE
 Bernard Shawsingel 142; 1102 VD Amsterdam; the Netherlands
- Mr. Galjus ORHAN Tel: +31-62-713 20 34
 Editor
 E-mail: orhangaljus@yahoo.com
- 63 THARA Vicuna
 Reinprechtsdorfertrasse 31; 1050 Vienna; Austria
 Web site: <http://www.thara.at>
- Ms. Nadine PAPAI Tel: +43-676-834 02 287
 E-mail: nadine.papai@thara.at
- 64 TURAN Information Agency
 33, Khagani Str.; AZ-1000 Baku; Azerbaijan
- Mr. Mehman ALIYEV Tel: +994-12-598 42 26
 Director Fax: +994-12-598 38 17
 E-mail: turan@azdata.net
- 65 The Associated Press
 Laimgrubengasse 10; 1060 Vienna; Austria
- Ms. Veronika OLEKSYN Tel: +43-1-368 41 56

Correspondent
E-mail: voleksyn@ap.org

Fax: +43-1-369 15 58

66 Turkmen Patriotic Youth Organisation "Aidynlyk"
Centralgatan 35A; 900 15 Oulu; Finland

Mr. Shanazar BERDYEV

Tel: +31623445143

Member

E-mail: berdyevs@mail.ru

67 Ukrainian Helsinki Human Rights Union
Olegivska str. 36, office 309; 04071 Kyiv; Ukraine
Web site: <http://www.helsinki.org.ua>

Mr. Volodymyr YAVORSKYI

Tel: +380-44-417 41 18

Executive Director

Fax: +380-44-417 41 18

E-mail: office@helsinki.org.ua

68 Webster University
Berchtoldgasse 1; A-1220 Vienna; Austria
Web site: <http://www.webster.ac.at>

Ms. Neli-Dana LEONTE

Tel: +43-676-580 51 71

M.A. in International Relations

Fax: +43-1-269 92 93 13

E-mail: dana.leonte@aon.at

Mr. Bogdan PERJU

Tel: +43-664-458 40 82

Delegate

E-mail: bogdan.perju@gmail.com

69 Weekly "Polityka"
Skrytka Poczтовая 13; 02-309 Warsaw 22; Poland
Web site: <http://www.polityka.com.pl>

Mr. Adam KRZEMINSKI

Tel: +48-601-31 62 57

Journalist

Fax: +48-22-451 61 35

E-mail: krzem@gmx.net

70 World Press Freedom Committee, Europe
133, ave. de Suffren; 75007 Paris; France
Web site: <http://www.wpfc.org>

Mr. Ronald KOVEN

Tel: +33-1-47 83 39 88

European Representative of WPFC

Fax: +33-1-45 66 83 02

E-mail: KovenRonald@aol.com

Other organizations

1 Consulate of Kyrgyzstan in Hungary
Nepfurdo u. 15/D; 1138 Budapest; Hungary

Dr. Endre ERDOS

Tel: +36-1-359 18 26

Honorary Consul of Kyrgyzstan in Hungary

Fax: +36-1-270 29 10

E-mail: kyrconsul@chello.hu

2 IRNA
Wagramerstrasse (UNO-Building); Vienna; Austria

Mr. Amir SCHOOF
Journalist
E-mail: malischoof@aon.at

Tel: +43-1-912 29 61

3 Tooks Chambers
8 Warner Yard, Warner Street; London EC1R 5EY, DX 68 Chancery Lane; United Kingdom,
Web site: <http://www.tooks.co.uk>

Mr. Michel MASSIH QC
E-mail: clerks@tooks.co.uk
Ms. Nadia MASSIH

Tel: +44-207-841 61 00
Fax: +44-207-841 61 99

Office for Democratic Institutions and Human Rights

Aleje Ujazdowskie 19, 00-557 Warsaw, Poland.
Tel.: +48-22 520 06 00; Fax: +48-22 520 06 05; E-mail: office@odihr.pl
Web site: <http://www.osce.org/odihr/>

Amb. Christian STROHAL
Director
Tel: +48-22-520 06 00

E-mail: office@odihr.pl

Mr. Maximilian HENNIG
Special Adviser to the Director
Ext: 3116

E-mail: Maximilian.Hennig@odihr.pl

Ms. Urdur GUNNARSDOTTIR
Spokesperson/Press and Public Information Adviser
Ext: 4162

E-mail: Urdur.Gunnarsdottir@odihr.pl

Ms. Kirsten MLACAK
Head of Human Rights Department
Ext: 4242

Ms. Lydia GRIGOREVA
Human Rights Officer
Ext: 4163

E-mail: Lydia.Grigoreva@odihr.pl

Mr. Christopher MICHAELSEN
Human Rights Officer
Ext: +4153

E-mail: Christopher.Michaelsen@odihr.pl

Mr. Robert ADAMS
Deputy Head of Democratization Department
Ext: 4128

E-mail: Robert.Adams@odihr.pl

Ms. Jo-Anne BISHOP
Senior Adviser; Tolerance and Non-Discrimination Department
Ext: 1170

E-mail: Joanne.Bishop@odihr.pl

Ms. Nav PUREWALL
Programme Officer; Tolerance and Non-Discrimination
Ext: 1186

Department

E-mail: nav.purewall@odihr.pl

Mr. Nicolae GHEORGHE
Adviser on Roma and Sinti Issues
Ext: 1143

E-mail: Nicolae.Gheorghe@odihr.pl

Mr. Jakhongir AZIZKHODJAEV
Conference Services Support Officer
Ext: 4161

E-mail: Jakhongir@odihr.pl

Mr. Ireneusz STEPINSKI
Senior Conference Services Assistant
E-mail: Ireneusz.Stepinski@odihr.pl
Ms. Anna SIERANT
Administrative Assistant
E-mail: Anna.Sierant@odihr.pl

Ext: 2136

Ext: 4121

Speakers and moderators

Mr. Frank	GEERKENS	Opening Remarks
Mr. Miklos	HARASZTI	Opening and Closing Remarks; Moderator of the Session II
Amb. Christian	STROHAL	Opening and Closing Remarks
Dr. Agnes	CALLAMARD	Keynote Speaker at the Opening Session
Mr. David	BANISAR	Introductory Speaker of the Session I
Mr. Pol	DELTOUR	Introductory Speaker of the Session I
Mr. Roland	BLESS	Moderator of the Session I
Ms. Dunja	MIJATOVIC	Introductory Speaker of the Session II
Mr. Adam	KRZEMINSKI	Introductory Speaker of the Session II
Mr. Jehad	MOMANI	Introductory Speaker of the Session II
Mr. Ali	DILEM	Introductory Speaker of the Session II
Mr. Patrick	CHAPATTE	Introductory Speaker of the Session II
Mr. Johann P.	FRITZ	Introductory Speaker of the Session II
Ms. Martine	VALLEE	Introductory Speaker of the Session II
Mr. Azer	HASRET	Introductory Speaker of the Session III
Ms. Ioana	AVADANI	Introductory Speaker of the Session III
Ms. Heidi	SMITH	Moderator of the Session III