

Freedom of the Media in Ukraine

First of all, we are grateful for the possibility to present our position on freedom of the media today. Freedom of expression and media freedom are fundamental rights and, as we all know, must be protected, ensured and safeguarded by the OSCE participating States.

However, as a member of public organization “Freedom of Speech Center”, practising lawyer and the Head of Committee for protection of human rights and rule of law of the Bar Association of Ukraine, I should emphasize rather grave situation as for the media freedom and freedom of expression in Ukraine and the dangerous climate of repression thereof. In particular, we have a lot of prime examples of the journalists’ imprisonment in Ukraine just for doing their job.

So, we ask your organization to call on the Government of Ukraine to honour and adhere to the commitments they do have in view to protect the media freedom and freedom of expression. Since such grave conditions for the media functioning and for the journalists’ work do not contribute to the establishment of the democratic values in our country such as media pluralism and rule of law.

Moreover, even today we all here can observe an application of the policy of the double standards by our Government, as those journalists who have criticized the authorities of Russia and are imprisoned in Russia, are treated as heroes, while those journalists, who have criticized our domestic authorities and are imprisoned in Ukraine, are treated as criminals.

Such unequal treatment of the domestic authorities, among others, has already divided our society to the different irreconcilable parts and, thus, it all deepens our social crisis and hinders the peacemaking process as a whole.

In particular, our legal society was shocked by the arbitrary judgment, delivered last year by the Andrushivskyy district court of the Zhytomir Region of Ukraine. The court sentenced two journalists – Dmytro Vasylets and Yevgen Timonin to nine years’ imprisonment for informational support to the terrorism: namely, they were accused of founding the Youtube Channel “Novorossiya TV”, though no evidences were provided during the investigation and trial proceedings. But the key point of this case was that, neither provisions of the Criminal Code of Ukraine, nor the Law “On prevention of terrorism” contained such definition as informational support or assistance of the terrorism. Thus, our national court following its wide margin of appreciation had abused the rights of journalists, delivering a judgment based on Article of the Criminal Code of Ukraine, which in its turn had not covered the elements of a criminal offense under Article 258 § 3 of the Criminal Code of Ukraine. Further, the Court of Appeal had quashed this judgment as groundless and unsubstantiated, delivered with numerous rude procedural violations, and later these journalists were released from detention. One of them is present here today. However, they were held two years and three months in custody under false accusation. They had not committed any violent actions but had only performed their journalistic work.

The European Court of Human Rights repeatedly pointed out the vagueness of the provisions of the Ukrainian legislation as well as that the Ukrainian courts go over the limit of discretion granted to national authorities by the Convention on Protection of Human Rights and Fundamental Freedoms.

Also, the ECHR in its case-law had already found violations of Article 10 (freedom of expression) and Article 6 (right to a fair trial) in similar cases, stating that conviction in so called “informational terrorism” violates the right to freedom of expression (for instance, the case “Dmitrievsky v. Russia”).

The European Court also stands to the position that journalists shall have a possibility to exercise their job without any borders and according to the European legal standards.

Therefore, we also call on to the Government of Ukraine to adhere to their obligations under the Convention on Protection of Human Rights and Fundamental Freedoms in order to minimize compensations paid for these violations from the State Budget of Ukraine, since we still have journalists being detained under such groundless charges.