

October 6, 2009

Working Session 12-13: Freedom of Expression, free media and information

Statement to OSCE Human Dimension Implementation Meeting, October 6, 2009

**As prepared for delivery by Dunja Mijatovic, Director of Broadcasting, Communication
Regulatory Agency of Bosnia and Herzegovina and Chairperson of European Platform
of
Regulatory Authorities /EPRA/**

Your excellences, dear colleagues,

I am honored to be able to address this very respectable and unique forum today in Warsaw.

I see my engagement here today as twofold, because this very meeting is bringing together both authorities and civil practitioners, and I have been working with one aim on my mind, which is to establish a free media in both of these capacities for at least the last 10 years. Allow me to address some of the most urgent challenges that the free media are facing in my region, but also quite universally, in the OSCE region as well.

Hate speech is the first topic I'd like to touch upon!

Hate speech used to be a main initiator of past dictatorships in the already distant past, while in recent history it induced hostilities between nations, nationalities and religions. The consequences of irresponsible public discourse, which was instigated by governments and politicians who were in total command of the media of their respective nations are still felt today.

Continuously present tensions should remind us of the grave dangers, but equally so of the power of free media to offer remedies. Past and present dangers should teach us how to deal with grave issue such as hate speech, but also teach us how far we can go with restrictive measures against hate speech, so that we don't violate freedom of expression. Freedom of expression needs legal guarantees of protection. It also needs regulation without censorship.

Additionally, let me pick on another crucial issue related to freedom of media and that refers to a constant threat of legal and physical security of journalists.

Direct violence against journalists, unfortunately, is still present in our region. This is a serious issue and the one that OSCE Freedom of the Media office should continue to tackle. Recent cases in Armenia, Russia, Kirgizstan, Georgia, and in my own country prove that security of journalists, legally and physically, is still under threat.

It is not only violence that should be put behind us; so must be criminal prosecutions related to defamation, and imprisonments of journalists. Journalist should be free to publish stories in

the public interest, without fear of censorship. Cases in Serbia, Slovakia, Italy, Turkey etc. that we faced only this year raise great concerns.

Of course, the journalists themselves need to have the responsibility to protect the culture of objectivity, and to report accurately, fairly and in good faith. Here again, there is no contradiction in the fact that a certain regulation of media is needed. It is difficult to find the sometimes thin line between censorship and legitimate regulation. The balancing on the thin line becomes especially difficult in a society suffering the aftermath of a war and undergoing the process of reconstruction. I am happy to see that the decriminalisation of defamation and libel has been substantially advanced in Romania, Ireland and the United Kingdom. I am proud that Bosnia and Herzegovina decriminalised defamation quite some time ago and I would like to encourage others to do so and relieve journalism from the "big chill".

I could list many other challenges to pluralism and freedom of the press, like the increasing concentration of ownership of media. This notion poses a serious threat to freedom of expression since it is political and corporate leaders that decide whose voices are to be heard.

Furthermore, I would like to draw your attention to fascinating challenges posed by the new media technologies. The globalization is changing the world in which we speak, listen and learn. New technologies are providing unlimited and exciting opportunities for people to communicate with each other around the world. In the age of the borderless Internet, the protection of a right to Freedom of Expression "regardless of frontiers" takes on new and more powerful meaning. Freedom of Expression and information has to co-exist with other fundamental rights and values.

Lately, we are witnesses of a vast expansion of media and media-like services on all platforms, from cable to phones, from satellites to Internet. In my view, the new media will be the biggest challenge for Freedom of the media office in the future. In order to take full advantage of the potential digitalization and the Internet there are a number of issues which have to be addressed. Global change is a challenge no society can ignore. How a society uses the new communications technologies and how it responds to economic, political and cultural globalization will determine our future.

Legal frameworks, necessary as they are, should be designed in a manner that further freedom, with restrictions not beyond what is necessary in a democratic society.

While defining the future, it is important to bear in mind that the role of the media is vital in generating a democratic culture. That is the final aim of our right to free speech. If freedom of media becomes culture, only then it extends beyond the political system and helps us even if our laws are not perfect; but if governments and journalists lose sight of that goal, not even good laws can help.

The way to engrain that culture is implementation of the principles that I mentioned as being challenged in our region, in line with the international standards.

Too many nations in Europe know that, like democracy, freedom of media and freedom of speech is not given once and for all. They must be constantly justified, reaffirmed and strengthened.