

- CHECK AGAINST DELIVERY -

ENGLISH only

July 13, 2006

Regular Report to the Permanent Council

Mr Chairman, Ladies and Gentlemen,

This is my second report to the Permanent Council this year.

The structure of my first report in 2006, in the wake of the "cartoon controversy", was adjusted to deal with issues of profound public interest that remain a high priority. Since then, my Office has been particularly busy dealing with the same issues, as well as with the structural issues that constitute the substance of my mandate. The extent of our work is reflected in the length of this current report.

This report provides summaries of the interventions made by my Office on individual cases in the OSCE region; it summarises one of our two country assessment visits (the full Kosovo report is included as an annex; the Armenia report will follow), it includes a summary of our joint achievements in the decriminalisation of defamation offences, and provides an update on our projects and activities. Finally, I outline our planned activities for the rest of this year.

I would like to greet Montenegro as the 56th participating State in the OSCE family. Allow me to assure you that my Office will be available to fully support both Serbia's and Montenegro's continued efforts to promote free and independent media.

Issues raised with participating States

Over the past months, I have raised several issues in our region, among them:

In **Albania**, the Government-proposed amendments on the composition of the National Council of Radio and Television (NCRT) and the Steering Council of the Albanian Radio and Television (SCART) were adopted by the Assembly on 19 June.

Earlier, I had sent a letter to the Speaker of the Assembly of Albania proposing that the two Councils comprise a civil-society majority, including NGOs and professional organizations, who would then be appointed by Parliament. The adopted amendments have taken these suggestions on board, which I commend.

However, the final appointment of Council members by Parliament will be made by simple majority, which entails the risk of an imbalanced Council composition. I therefore

encourage the Albanian Government to consider a further amendment of the law. It is a common practice in Europe that the Council or its chairperson is approved by Parliament with a qualified majority.

On 3 March I wrote to the President of **Azerbaijan**, Ilham Aliyev, regarding the case of Samir Adigozalov, the editor and founder of the newspaper *Boyuk Milat*, sentenced to one year imprisonment for libel. In my letter I also asked the President to maintain the momentum of his earlier voluntary moratorium initiative, by starting a law reform to remove the libel, defamation, and verbal insult provisions from the Criminal Code, and to set rational ceilings for civil defamation damage payments.

On 3 July I wrote to the Azerbaijani authorities regarding the arrest of Mirza Sakit Zahidov, a satiric journalist working with the newspaper *Azadliq*. Although proceedings were launched against him on charges of possessing drugs, many members of the civil society assumed that Mr. Zahidov's arrest was a response to his poems that satirized politicians and public figures. In my letter I asked the authorities to be pro-active in informing the public regularly about the course of the investigation.

On 28 March I expressed my concern over the detentions of **Belarusian** and foreign journalists in the aftermath of the presidential elections. I stressed the pro-active role that governments must have in ensuring a safe working environment for journalists, even when they cover unauthorised events.

On 7 April, I sent a letter to the **Bulgarian** authorities expressing concern over the explosion in Sofia in front of the apartment of the *Nova Television* journalist Vasil Ivanov. Ivanov is a well-known investigative reporter. In a letter on 19 May, the Bulgarian Ministry of Interior assured me that the police are actively working to identify the perpetrators and will bring them to justice. My Office will continue to follow the developments in this case.

In **Hungary**, I welcome the decision of the Budapest Court of Appeals in May, which acquitted Rita Csík, a journalist of the national daily newspaper *Népszava*, of 'breaching state secrets.'

At the same time, my Office continues to follow the case of Antónia Rádi, a journalist of the weekly magazine *HVG*, who is currently awaiting a court decision. She is accused of 'breaching state secrets' in a critical piece about a local prosecutor's office.

I renew my request to the Hungarian government to amend the provisions that still allow for court proceedings against civilians who get hold of leaks.

In my letter of 14 June to the Minister of Information and Culture of **Kazakhstan**, Ermukhamet Ertysbayev, I appealed to the authorities to withdraw a set of proposed amendments to the Law on Mass Media. The changes would multiply the number of reasons that could be used to deny print press registration, and would prohibit editors of

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papers that have been closed by a court from working again as editors for other papers. I noted that if adopted, the amendments would not only impose a significant threat to media freedom in the country but would also contradict the OSCE commitments and would set an unacceptable precedent in the region.

Regrettably, the amendments were adopted by the Upper House of Parliament on 29 June, and on 5 July President Nazarbayev also signed them, thus bringing them into effect. I hoped the President would reject this set of restrictive amendments, just as he did two years ago in the case of a media law that was unsuited to further democratize the handling of the press.

I reiterate my offer of legal assistance to the authorities of Kazakhstan and urge the courts of Kazakhstan not to interpret the new amendments in a restrictive manner.

On 14 February, I welcomed the decision of the Parliament of **Moldova** to follow my recommendation and reject the draft law on a national register for periodicals.

On 7 March, I sent a letter to the Foreign Minister of **Romania** regarding two journalists under criminal investigation in a breach of secrecy case. The case was opened despite the fact that the journalists recognized the character of the leaked information, returned the data to the Ministry of Defence, informed it about the leak amongst its ranks, and did not publish any of the material.

In his answer, Foreign Minister Ungureanu wrote that "the Romanian law does not distinguish between persons that are compelled to keep confidential information and the other citizens." He assures that during an upcoming revision of the legal framework concerning national security "appropriate attention will be paid to increasing the guarantees afforded for the full respect of the freedom of expression."

In an open letter to my Office on 28 June 2006 by the *Convention of the Media Organizations of Romania*, I was notified that the journalists concerned continue to be called to the prosecutor's office for interrogations, even six months after the events.

I consider the action by Romanian authorities as having a chilling effect on journalism in Romania. I call upon the Government to suspend this practice and to initiate legislative changes to remedy the situation as proposed by the Foreign Minister in his letter to me.

On 27 February, I sent a letter to the **Russian** authorities regarding the case of *NTV* journalist Ilia Zimin, who was murdered at his apartment in Moscow on 26 February. On 15 May, I contacted the authorities regarding the case of the murder of *L-Radio* broadcaster Oleg Barabishkin, who was murdered on 14 May in the Chelyabinsk region. On 1 June, I sent a letter to the Russian authorities, regarding the case of *TVT's* journalist Vyacheslav Akatov, who was murdered in his apartment on 27 May. On 5 July, I contacted the authorities regarding the case of Anton Kretenchuk, a cameraman for the Roston-on-Don TV company *Alternativa*, who died from knife wounds received in an

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attack by an unknown assailant on 24 June.

I expressed my satisfaction that the Russian authorities have acted swiftly to open criminal proceedings, and acknowledged the efforts made to bring these cases to a close. I also stressed that an open and informative manner in which the authorities deal with the inquiries is of significance, in order to send a convincing message to the public regarding their commitment to protect journalists against murderous violence.

Following the case of Stanislav Dmitrievsky, editor-in-chief of *Pravozashita* (Human Rights Defence), mentioned in my previous report to the Permanent Council, I learnt on 11 April that the Nizhny-Novgorod Regional Court upheld the guilty verdict on Dmitrievsky. Dmitrievsky was sentenced in February to a two year suspended prison term for 'encitement of hatred or enmity towards nationalities', after he reprinted two documents from the Internet in *Pravozashita*. These documents were open letters by Chechen separatist leaders to the European Parliament and to the Russian public.

In response to my letter to the Minister of Justice dated 7 February, the Russian authorities refer to the suspended nature of the sentence and the conformity of the sentence with current Russian legislation.

The position of my Office remains that incitement provisions are misused if applied to sanction publications of documents with the intention to inform about issues debated in society. Dmitrievsky plans to appeal his case to the European Court of Human Rights, and my Office will continue to monitor the proceedings.

On 17 May, I raised with the authorities of **Serbia and Montenegro** the issue of the temporary revocation of BK Television's license by the Republican Broadcasting Agency (RBA) Council. BK Television was shut down during the night of 25 -26 April in the presence of police. I reminded the authorities that a regulator should in all cases respect relevant notice procedures, and that the presence of police while closing down the TV station was an excessive display of force for such an occasion. I am relieved that the Minister of the Interior, Dragan Jovic, apologized afterwards for the police presence.

Unfortunately, the situation has since deteriorated. Although the Serbian Supreme Court annulled the decision of the RBA on 26 May, the RBA on the same day, renewed its decision and dismissed all appeals from BK Television, and other unsuccessful applicants, for broadcast licences.

In efforts coordinated with my Office, the OSCE Mission to Serbia and Montenegro issued a public statement on 26 May voicing concern. We will, together with the OSCE field presence, closely follow the further development in this case.

I am encouraged to learn that the BBC in **Tajikistan** has now received its registration and will soon recommence broadcasting. The position of my Office is that while legitimate reasons exist to obligate a media outlet to register with the authorities in order to obtain a

licence to broadcast – for example, in order to broadcast on limited FM frequencies – registration itself should be of a purely technical nature. I encourage the authorities of all the OSCE participating States to evaluate current practices to ensure that restrictive registration procedures are not serving to prevent pluralism.

On 15 March I sent a letter to the **Turkmenistan** authorities regarding the case of two Turkmen citizens, Meret Khommadov and Yumadurdy Ovezov, who were working with *Radio Free Europe/Radio Liberty* and who went missing on March 7. In response to my request for information on the case, the Turkmen authorities informed me that the men were charged with petty hooliganism under article 168 of the Administrative Code, and were sentenced to 15 days of community service on charges of disrupting a public meeting. They also noted that the two men have not received formal journalist training and, additionally, conduct private business in the Mary region. Owing to the information provided, I was able to establish the whereabouts of the *RFE/RL* journalists.

In my reply, I noted that the OSCE Commitments make it a right for civilians to be able to contribute to the media, including the foreign press, regardless of the level of their professional training. I am satisfied that following their release the two journalists were able to make public statements with their account of the events.

On 5 July, I contacted the authorities of Turkmenistan regarding the arrest of Ogulsapar Muradova, *RFE/RL* reporter, and Annakurban Amanklychev, who was working for the broadcast company Galaxie-Press and French TV channel *France 2*.

Press reports state that the arrests were made due to previous criticism aimed at the authorities, and that the detained have been denied access to lawyers. Because of this, I noted, special attention is required in order that civil society is convinced of the fairness and transparency of the investigation. The authorities should be pro-active in informing the public regularly about these cases. Full access to the detained by lawyers, family, and visitors, could also boost confidence. My Office will continue to monitor the proceedings, and I look forward to receiving further information from the Turkmen authorities.

On June 9, I raised the attack on Sergei Yanovsky, correspondent of the *Kyivskiyiye Vedomosti* in Kherson, with the **Ukrainian** authorities. I welcomed the fact that the investigation was started immediately, and asked the authorities to be pro-active in regularly informing the public about the course of the investigation.

I welcomed the 15 June decision by Carla del Ponte, the chief prosecutor of the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, not to prosecute three Croatian journalists accused of ‘contempt of court’ for revealing the identity of a protected witness, current Croatian President Mesic. However, in separate prosecutions, although the charges are the same, an editor was already convicted of contempt of court, and sentenced to a fine of 15,000 euros, while another editor still faces up to seven years in prison and a fine of up to 100,000 euros.

I reiterate what I wrote to the ICTY in 2005, urging the Court to consider revising Rule 77 of its proceedings, in order to spare the media from ‘contempt of court’ charges if they report on events of legitimate public interest.

“Cartoon controversy” – the follow-up in the courts

I have both good and regrettable developments to report about with reference to my public statement on 24 February on three cases in **Russia** and **Belarus**, where criminal charges were brought against newspapers for publishing the Danish drawings or their own cartoons with religious figures.

I was glad to learn that the Vologda Oblast Court, following a successful appeal by Anna Smirnova, editor-in-chief of *Nash Region* (Vologda, Russia), overturned the decision of the Vologda City Court, and revoked Smirnova’s sentence. In February, she received a fine of 100,000 roubles (approximately 2,900 Euro) and a two-year suspended sentence under article 282 of the Russian Criminal Code, ‘incitement of religious conflict’.

For a less fortunate reason, criminal procedures were also stopped against *Gorodskie Vesti* (Volgograd, Russia), as the municipality publisher *News-Inform* decided to close the newspaper following charges brought by the regional branch of United Russia (Edinaya Rossiya). The editorial office moved to a newly created newspaper, *Volgogradskaya Gazeta*.

The third newspaper in question, *Zhoda* (Minsk, Belarus) remains closed, and criminal proceedings are still underway against Deputy Chief Editor Alexandr Sdvizhkov. The charge is based on Article 130 of the Belarusian Criminal Code, ‘incitement of racial, ethnic or religious hostility.’ *Zhoda* was closed by a court decision on 17 March, and all its computers confiscated.

"These cases are different in nature, but they have one feature in common," I said in February. "In all three cases, local or state authorities have overtaken civil society's role in helping to raise the standards of editorial professionalism and global oversight. They will not be successful as authorities are unfit for that job. But they will certainly succeed in restricting the free flow of information in society."

I call on the Belarus authorities to drop the case against *Zhoda* and its editors; as such procedures are clearly misusing hate speech laws.

In **Azerbaijan**, on 1 June 2006, the newspaper *Gun* (Day) published cartoons depicting the leader of the Islamic revolution in Iran, Imam Khomeyni, and Iran's present cleric leader, Khamene'i. As a result, the Prosecutor's Office initiated criminal proceedings against *Gun* and against another newspaper, *New Fakt*, the charges being ‘incitement to ethnic and religious strife (Article 283.1), and abuse of office (Article 308.1).

My Office will continue to follow these cases, and I hope that the prosecutor will drop these charges as soon as possible.

Access to information questionnaire

On 25 May, I announced to this forum a new project of my Office “**A comprehensive review of laws and practices on access to information by the media in the OSCE participating States**”. I asked all OSCE participating States to assist my Office to collect information for the project by filling in the questionnaire that was forwarded to all Delegations on 29 May 2006 (FOM.GAL/4/06).

The aim of the project is to enhance the protection that States offer to journalists who report about issues of public interest. Acknowledging that global terrorism is a major concern, and demands for improved national and human security are legitimate, we all should continue to observe the citizens' right to learn about issues of legitimate public interest.

In addition to the cases mentioned above, let me give you examples of cases monitored in our Office, some dating back several months, to illustrate the OSCE-wide trend which finally compelled my Office to launch this inquiry.

The **Swiss** Military and Civil Attorneys opened investigations in January 2006 into a newspaper, which printed a piece of military intelligence regarding extra-legal detention facilities in Europe.

In the United Kingdom, Neil Garrett television journalist of *ITV News*, who revealed details of alleged police blunders leading to the shooting of Jean Charles de Menezes in a London subway station after being mistaken for a terrorist in July 2005 was arrested for a day in October 2005. He is suspected of having obtained leaked information.

In the **USA**, in January, in sentencing a violator of the Espionage Act, the judge also ruled that the laws governing classified information apply to anyone who receives such information, including the reporters who are the recipients of the leaks.

On 20 January 2006, Lewis Libby's attorneys told a federal court that they plan to subpoena several journalists and news organizations to obtain all information they deem useful for defending Libby from perjury charges. This can be seen as a reaction to, and a widening of, the precedent Special Counsel Patrick J. Fitzgerald created by issuing subpoenas for Judith Miller of the *New York Times* and Matthew Cooper of *Time Magazine* in September 2005, which led to the indictment of the former White House official.

In May 2006, the US Attorney General Gonzales said that the US federal government appears to have the authority to prosecute journalists or newspapers for publishing classified information, and he did not rule out prosecuting the *New York Times* or its reporters for publishing the leak on the government's surveillance programme.

In **Germany**, prosecutors in September 2005 searched the newsroom of the monthly *Cicero* as well as the apartment of one of their staff. This action by the judicial authorities was explained by the fact that the magazine carried an article in April 2005 with quotes from classified documents of the Federal Criminal Police Office, Bundeskriminalamt.

In **France** in January 2005, an examining magistrate led police to search the weekly *Le Point* premises in Paris. At the same time a similar raid was being carried out at the offices of the sports daily *l'Equipe*. Police carried out the raids as part of an investigation into an alleged "violation of the confidentiality of an investigation" concerning a doping scandal involving a cycling team, Cofidis.

There are reassuring developments as well, such as the adoption by the Connecticut legislature in May 2006 of a provision protecting journalists from disclosing their confidential sources (this is the 32nd State adopting a 'shield law' in the **USA**). Another example is the Senate Judiciary Committee's deliberations about a federal 'shield law'.

However, the selection of cases above is indicative of the increased pressure faced by the media, and the growing use of legal tools that had earlier been considered inappropriate for societies with virulent investigative journalism.

In order to gain a more systematic overview, my Office asked the OSCE participating States to share details of their relevant legislation and practice. Based on them, we will produce guidelines and recommendations for a renewed balance of today's heightened security concerns and press freedoms.

I therefore rely on support from all Governments of the OSCE region in this important project, and call upon your continued cooperation to receive filled out questionnaires by 1 October 2006.

Assessment visit to Kosovo

I visited Pristina 25 – 27 April 2006. This was my second visit to **Kosovo**, which was made in consultation with UNMIK and was organized by the OSCE Mission in Pristina. The purpose of the trip was to assess the current state of media freedom, especially in the context of a possible change of status as a consequence of the ongoing negotiations.

OSCE is involved in a special way in Kosovo, since the OSCE Mission as Pillar III of UNMIK is in charge of media development.

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In April 2004, I issued a report on the role of the media in the March 2004 ethnic violence. My visit therefore focused on the development of the Kosovo media since then.

Overall, there is media pluralism in Kosovo, both in terms of quantity of media outlets and of different views that are represented. However, the division between Albanian and non-Albanian language media is still prevailing, especially with regard to the scarce Serbian-language print media. There is only one bilingual Albanian-Serbian language newspaper.

The high amount of media outlets is also one of the reasons for the fragility inherent in the - still young - media environment in Kosovo. Loss-making media outlets are an accepted feature, which translates into low budget journalism of varying levels of quality. Economically deprived media are also vulnerable to interference with their editorial independence.

Politicians, political institutions and the international presence in Kosovo are regularly criticized in the media; independent TV and radio stations are outspoken in their comments concerning the authorities.

The flaws in journalistic professionalism, which were so obvious in the lead-up and the aftermath of the violence of March 2004, were corrected on the most important level, the editorial. The Kosovo media showed a high degree of maturity when covering politically sensitive topics such as the ICTY indictment of a former Prime Minister; or the debate on a border agreement with its southern neighbour, the former Yugoslav Republic of Macedonia; or the ongoing status negotiations.

This development was paralleled by the establishment of a code of ethics and a Press Council, promising elements of a future self-regulation regime. In addition, an M.A. level professional education facility was established.

The few missing pieces in the legal framework for a free media are in the making - with the support of the OSCE Mission - and are debated by the Kosovo Assembly.

The following are three of my recommendations from the 15 which are outlined in my report on Media Freedom in Kosovo.

- The established Minority Media Fund (largely financed by the license fee) offers a unique opportunity to foster a multi-cultural media in Kosovo, and the establishment of a second *RTK* channel from this Fund should be envisaged. Journalists' associations should make a particular effort to become multi-ethnic instead of organizing themselves along ethnic lines.

- The level of advertisement revenue for both *RTK* and for commercial broadcasters, should be determined by a longer-term perspective, and should be accounted for in a publicly transparent way. It is suggested to follow the model common in Europe, which allows public-service broadcasters about half the airtime for advertisement compared to commercial ones.
- The switch-over from analogue to digital broadcast transmission will offer an opportunity in Kosovo for (re-)issuing the licenses in a transparent manner through public tenders based on an updated frequency allocation plan. It is imperative that Kosovo, for the sake of its future broadcast development after Kosovo's status is defined, be given its own digital frequency allocation by the International Telecommunications Union (ITU).

The full report has been distributed and can be accessed on our website, www.osce.org/documents/rfm/2006

Supplementary Human Dimension Meeting

The SHDM, which will be held on 13 and 14 of July on Freedom of the Media, will look at three major challenges in the domain of freedom of the media.

- The first issue to be addressed will be **Access to Information**. Access to information is a precondition for the journalistic task of implementing the public's right to know about issues of public importance, and hold government officials accountable. There is a tendency among some OSCE pS to deny journalists their right to publish confidential information, or to keep their sources to themselves. However, the liability for disseminating unauthorised information should lie solely with the officials who were obliged to maintain the secrets.
- In light of recent cultural differences concerning certain artistic depictions, such as the recent cartoon controversy, the second session, with a high-profile panel of speakers, will address the **interrelation between artistic expression, self-regulation, and respect for cultural sensitivities**. Publications that are offensive to certain sections of society should be dealt with through the self-regulatory bodies of the quality press and not through more governmental regulations.
- The last session will focus on the **administrative difficulties** faced by independent media outlets in some participating States. Independent media can only exist if the administrative requirements vis-à-vis the media, be they governmental or privately owned, are applied in a non-discriminatory manner. Such regulations should proactively provide for a normal functioning of the media. Equally, they should provide for a legal environment allowing journalists to carry out their work without fear of physical or administrative reprisal.

As usual, a separate SDHM final report will also include the discussions of the meeting.

Achievements in the decriminalization of defamation

An increased understanding of the need for reform among governments and legislators, and a growing number of nations who are actually making reforms in this area are the main achievements of the campaign against criminal defamation laws and disproportionate awards in civil cases.

The campaign – long-term in nature – is also an example of complementary action between OSCE and the CoE, which in its turn helped to raise awareness within EU Institutions.

Where we stand now

Seven OSCE participating States - **Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Moldova, Ukraine**, and the **United States** - have removed criminal libel and insult provisions from their penal codes¹.

Some participating States – including **Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Romania, and Serbia** - have removed imprisonment as an option for punishment for defamation.

Recent achievements

I am pleased to announce that within the last 12 months **Croatia, the former Yugoslav Republic of Macedonia, Serbia and Kosovo** have liberalized their defamation legislation.

In February, together with the Spillover Monitor Mission to Skopje, my Office held an international conference in Skopje, **former Yugoslav Republic of Macedonia**, in support of decriminalization of libel and insult. As a result, the Government elaborated and approved amendments to the Criminal Code, which were passed by Parliament on 10 May 2006 by an unanimous vote.

On 28 June 2006, the amendments to the Criminal Code of **Croatia** deleting imprisonment as an option for punishment for defamation entered into force. I welcomed this move in my public statement on 29 June. The Croatian Parliament on 9 June 2006 adopted the amendments. This result was achieved due to intensive joint efforts taken by the Government, the OSCE Mission to Croatia and my Office.

¹ Certain narrowly-defined defamation provisions are still present in some of these participating States criminal codes. In the United States, 17 states and two territories have retained local criminal defamation provisions; however, there are no Federal criminal defamation laws.

In the **Republic of Serbia**, a new Criminal Code, which came into force on 1 January 2006, excluded imprisonment as a sanction for libel and insult. My Office had been continuously supporting the reform of the defamation legislation in the Republic of Serbia. I participated in a round-table debate on this matter organized by the OSCE Mission in Serbia and Montenegro on 24 January 2005, and held meetings with officials in Belgrade on this subject.

In **Kosovo**, the Assembly adopted a new civil law on defamation in June 2006. Still, under the existing UNMIK penal code, defamation remains a criminal offence, although media are exempted from insult charges.

Upon a commendable initiative of the Government, in 2005, experts from the Prime Minister's Office, the OSCE, and the Temporary Media Commissioner elaborated a civil version of the Law on Defamation and Insult. Adopted by Parliament in June 2006, the law is generally in line with modern concepts of decriminalizing speech offences. The definition of defamation in the new law establishes liability only for 'untrue' statements of facts. Media's complying with recommendations of the Press Council is a mitigating factor for setting damages in defamation lawsuits. Public figures have to accept to be subject to stronger criticism than ordinary citizens.

The new law has yet to be promulgated by the SRSG.

However, in Kosovo there is scope for further improvements as the new law does not exempt media from liability for insult, unlike the penal code. This raises anxiety among media experts of a potential wave of media-related insult cases in Kosovo courts. Besides, defamation provisions should still be deleted from the penal code.

In **Albania**, amendments to the Criminal and the Civil Codes were prepared by non-governmental organisations, and proposed for discussion in Parliament by a group of MPs. The amendments would almost completely decriminalize defamation, and improve handling of libel and insult cases under the civil law. My Office commented on them and suggested further changes. At the time of writing, these amendments were pending approval by the Albanian Parliament. I hope that the Assembly of the Republic of Albania will adopt the amendments in the nearest future.

Co-operation with the Council of Europe and the European Union

I was very encouraged by the statement made by Terry Davis, the Secretary General of the **Council of Europe**, on the occasion of World Press Freedom Day on 3 May 2006. The Secretary General appealed to the CoE member states to decriminalize defamation. He said:

"A particularly insidious form of intimidation is the threat of prosecution for libel. In fact, more than two thirds of the Council of Europe member states maintain criminal

sanctions for defamation, and these laws are often used to stifle criticism. I call on all Council of Europe member states to review their legislation, abolish criminal provisions and prevent disproportionate damages in civil cases against journalists.“

I fully support Secretary General's statement and would like to repeat my call on all OSCE participating States to lift the burden of outdated defamation provisions from the shoulders of the free press to allow for uninhibited coverage of events of a high public interest.

On June 10 my Office met with the new Commissioner on Human Rights of the Council of Europe, Thomas Hammerberg, and discussed issues of mutual concern, particularly those related to the decriminalisation of libel.

During my visit to Brussels on 29-30 May, I held bilateral meetings with MEPs and the **European Commission's** DG Information Society. My Office also met with its newly created Media Task Force. Topics discussed included the media policy in acceding countries, the decriminalization of libel and the draft EU audiovisual directive.

On the question of decriminalization of defamation, my Office is now liaising with MEP Stavros Lambrinidis, the Vice-Chairman of the Committee on Civil Liberties, Justice and Home Affairs of the **European Parliament** in order to explore possibilities for closer co-operation between our organizations on this issue.

In my communications with EU Institutions, I stress the need for the EU member states to decriminalize defamation for two reasons: to send a message to participating States outside of the EU and encourage reform there; and to implement an important rule of law principle by removing from statute books outdated pieces of legislation, which are no longer applied by courts.

Decriminalization of defamation will remain high on my Office's agenda.

Projects/Activities since the last report

Assistance Projects

My Office this year continues its successful series of training projects "Interaction between the media and the state press services". The aim of the training is to assist press and public information officers to learn new techniques of effective management of press services. The course also includes modules on the legal bases for interaction with journalists and includes an overview of international experience in this sphere. The training aims to improve journalists' professional and ethical skills.

Together with the Office of the OSCE Project Coordinator in Ukraine follow-up training courses were held in three **Ukrainian** cities – Sebastopol, Kharkov and Donetsk and a further session is planned in Odessa at the end of July.

Further courses are planned in **Azerbaijan** (July) and additional training courses are planned in **Kazakhstan** and **Tajikistan** (September).

Internet

On 30 April, a two-year project "Guaranteeing Media Freedom on the Internet" was completed. The project comprised the second and the third Amsterdam Internet Conferences, a new publication 'Media Freedom Internet Cookbook' in English and Russian. As a direct result of the project, Internet issues have acquired a higher profile in the OSCE region.

A detailed final project report is currently in development and I would like to thank the donor countries, the **Netherlands** and **Germany**, for their generous support in this important activity.

We are planning to continue this vital program as part of our core activities.

Hate speech

On 31 March - 1 April, at the International Conference on Hate Speech organized by Central European University and other international academic institutions in Budapest I initiated the special event "Panel of Diplomats". During the discussions, the Heads of Missions of the Russian Federation, the USA, France, Turkey and Slovakia presented their views on this important issue.

As yet, we have not developed a universally applicable measure for what are legitimate limitations on speech. I hope that the OSCE can benefit from similar multilateral deliberations and a common approach to hate speech regulation be achieved, in spite of the variety of opinion that currently exists on this subject.

This program, hitherto accomplished from extra-budgetary means, needs to be continued within our core agenda.

Legal reviews

This spring, my Office continued reviewing media legislation in the participating States. In **Albania**, the law on state secrets and its new amendments were reviewed. In **Moldova**, the draft Audiovisual Code was reviewed, and the expert provided the authorities with a second document which incorporates elements from several separate draft laws, in order to suggest the best alternatives for a model law. In **Kazakhstan**, a review on the NGO-drafted alternative media law is currently being prepared.

My Office is currently reviewing new defamation legislation, proposed by the **Irish** government in July.

Allow me to recall that RFoM's legal reviews are undertaken in close consultation with the Council of Europe, demonstrating again the close cooperation between our two organisations. All legal reviews can be found on the Legal Reviews section of the RFoM homepage <http://www.osce.org/fom>.

Other activities

In April, I was invited by the **Kazakhstan** authorities to speak at the Central Asia Media Forum held in Almaty. During my visit, I met with the Minister of Information to discuss, *inter alia*, the situation with Public TV in Kazakhstan and to voice my concerns regarding the government-proposed amendments to the media law. Naturally, I also met with representatives of civil society and media NGOs. I would like to express my appreciation to the OSCE Centre in Almaty for their assistance with the preparations for the visit.

On 22-23 May, I was a speaker at the EUROMED Seminar "Racism, Xenophobia and the Media: Towards respect and Understanding of all religions and cultures", held on 22-23 May in Vienna. The event was jointly organised by the Austrian Presidency of the EU, the European Commission, and the European Monitoring Centre on Racism and Xenophobia, in consultation with EU's Mediterranean Partners.

I also visited Brussels twice since the last PC report. During my first visit 29-30 May, I participated as a speaker at the MEDEA conference on "The role of web and satellite TV's in the relationships between the peoples of the OSCE, the Mediterranean and the Middle Eastern countries", conducted under the auspices of the OSCE Chairmanship.

On 8 May I spoke on media legislation issues at a Parliamentary Troika meeting in the Stability Pact for South Eastern Europe framework. The meeting was organised by the European Parliament and also included members of the Parliamentary Assemblies of the OSCE and the Council of Europe.

Planned activities for the next period

In my previous report to the Permanent Council on 16 February, I announced the renewed concept for the two **regional conferences**. This year's conferences, under the theme of "The Business of Media," a one-day Conference on media privatisation and sustainability will be followed by a second day of training in management and business skills. The **Central Asian** event will take place in Bishkek 19-20 October; the **South Caucasus** event on 2-3 November in Tbilisi. We are still hoping for further financial contributions from the participating States to cover the costs of these extra-budgetary projects.

Recently, a new trend concerning the development of *self-regulation mechanisms* can be observed in the OSCE region. For instance, Press Councils have been created among others in **Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Kosovo and Ukraine**. According to my observations, the issue of self-regulation has gained considerable importance in the last years. It has proved to be the most convincing answer to the question of how to ensure simultaneously the media's freedom and responsibility. Currently, my Office is undertaking an analysis of the current situation regarding self-regulation in the OSCE participating States. Using the results of this analysis, we will make proposals for follow-up activities.

On the *Internet*, we are complementing protection of freedom with spreading know-how. RFOM developed, together with IREX (International Research and Exchange Board), an Internet training programme for young online journalists from **Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan**. The training outline was developed as a follow-up of the 3rd Amsterdam Internet Conference in Amsterdam within the two-year Internet project financed by the **Netherlands and Germany**. This summer's trainings will take place in Osh and Khujand, and include young journalists from **Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan**. The participants will be trained by a team of experts of the Internet Access and Training Program (IATP). After the training, the completed materials will be hosted on IATP's server for long-term sustainability of the project. The training is funded by my Office and implemented by IREX in August this year.

In **Georgia**, thirteen training courses for judges on freedom of expression standards and legislation will take place between August and October.

At the invitation of Oxford University, **UK**, in July I will give three days of lectures in the Media Law Advocates Programme, on the mandate of my Office and its activities.