

**Organization for Security and Co-operation in Europe**  
**The Representative on Freedom of the Media**  
**and**  
**The OSCE Mission to Georgia**

**First South Caucasus Media Conference**  
**Tbilisi**  
**21st Century Challenges for the Media in South Caucasus:**  
**Dealing with Libel and Freedom of Information**  
**25-26 October 2004**

**On 25 and 26 October 2004**, the First South Caucasus Media Conference was held in Tbilisi, Georgia. The Conference was organized by the OSCE Representative on Freedom of the Media, **Miklos Haraszti**, in cooperation with the OSCE Mission to Georgia. For the first time journalists and NGOs from Armenia, Azerbaijan and Georgia, as well as international experts came together to discuss their common problems. The conference focused on **Libel** and **Legislation on Freedom of Information** as modern challenges for the media in the 21<sup>st</sup> century.

The conference heard that obsolete **defamation** laws are detrimental to democratic reforms when freedom of the press and uninhibited discussion of public issues are chilled by the use of these laws. There was also a discussion of the positive developments in three countries. Earlier this year Georgia became one of the six OSCE participating States decriminalizing defamation. Armenia also took an important step forward by reducing criminal penalties for libel. The process of elaboration of the new Law regulating defamation, libel issues and protection of honour and dignity has started in Azerbaijan.

The conference participants also stated that **access to official information** remains a major problem area for the media in the three South Caucasus states. Among the major obstacles the journalists highlighted were: the poor implementation of existing laws on access to information; excessive state secrets' laws and criminal penalties for their violations; lack of public awareness of legal rights to access to information; and lack of professionalism among the media.

Participants encouraged the OSCE Representative on Freedom of the Media to continue the South Caucasus Media Conferences in the future.

The Conference ended with a **Declaration** on libel and freedom of information, to which all participants subscribed.

**The Tbilisi Declaration on Libel and Freedom of Information**

***On Defamation:***

Executive and legislative authorities at all levels should systematically review all legal norms including laws, regulations, decrees and other legal instruments, that impose criminal and civil sanctions for defamation. This review should be in consultation with the judiciary, media and civil society organizations. The changes should include:

In Armenia and Azerbaijan, criminal defamation laws should be eliminated and replaced with appropriate and narrowly defined civil defamation laws. As a first step, at least prison sentences should be abolished including suspended ones. If decriminalization is not possible in the short term, all current cases should be stopped and a moratorium on further cases should be imposed. All persons imprisoned for these offences should be released and rehabilitated.

Public bodies should not be eligible to use defamation laws. Under the law, public officials and elected representatives should be prohibited from using defamation laws to suppress legitimate criticism of their activities or limit political debate.

Specific criminal and civil laws for insulting heads of state should be abolished.

Civil defamation laws should be revised based on established international standards and best practices. The burden of proving falsehood should always be placed on the person who is complaining. Even in cases of factual inaccuracies, there should be a defense of 'reasonable publication' available. In parallel to decriminalization, civil damages should be limited to what is clearly necessary only to repair the harm done by the defamatory statement and take into account the effect of the award on the ability of the defendant to continue to exercise their profession. Laws should define an upper limit for damages.

Media should develop, promote and observe professional and ethical standards. Governments should not obstruct efforts by media to establish professional bodies and create self-regulatory mechanisms.

Specialized non-governmental organizations should conduct ongoing monitoring and regularly report on the use of these laws. They should provide training to media on their legal rights and obligations.

### ***On Freedom of Information:***

Executive and legislative authorities at all levels should systematically review all legal norms including laws, regulations, decrees and other legal instruments, that affect access to information held by public bodies. This review should be in consultation with the judiciary, media and civil society organizations. The changes should include:

#### *Regarding Freedom of Information and Related Laws:*

The adoption of a comprehensive law on Free Access to Information based on international standards should be finalized in Azerbaijan.

All three countries should develop a strategy jointly with the media and NGOs and a comprehensive strategy for the implementation of the laws.

All public institutions and government departments should establish procedures and mechanisms (training, public hours, appointment of information officers, setting up information management systems, creating and maintaining official web sites) to effectively enable the media and the public to access information held by the institution.

Official web sites should be established, maintained and regularly updated.

Oversight over the observation of these laws and standards should be ensured and carried out by parliaments, parliamentary commissions open to the public, commissions of public hearings and an independent information commission.

Laws should be developed to create an independent review mechanism to provide protection for 'whistleblowers'.

#### *Regarding State Secrets:*

The State Secrets Acts and regulations should be amended in order to limit their applicability only to that information whose disclosure would significantly threaten the national security or territorial integrity of a nation.

Rules by which information is classified should be made public. Information should be classified within a short period of being created. Information classified as secret should be reviewed periodically and be declassified no later than 20 years after it was classified. Independent bodies which review classification decisions should be created, such as ombudsmen or information commissioners. Criminal liability connected with the disclosure of state secrets should be limited in cases of public interest. Journalists should not be required to disclose their sources.

#### *The Judiciary*

The independence of the judiciary has to be strengthened in order to effectively enforce the right to freedom of information.

#### *The Media and NGOs*

Should promote awareness of access to information laws and monitor their use. Investigate all illegal restrictions on freedom of information, attacks on journalists, cases of punishment of journalists for seeking and publishing information regarded to be of public interest.

The media should know their rights to access information under existing legislation and use those rights. Unlawful denials should be challenged and publicized.

Tbilisi, 26 October 2004