



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

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**Communique by the OSCE Representative on Freedom of the Media on using drones
for journalism**

Freedom of the media is mainly thought about as the freedom to disseminate particular content. In fact it very much concerns the technology to collect and disseminate the content. I decided to raise certain issues related to the recent introduction of a technology that facilitates journalism and provide input into a mostly unexplored debate on the use of drones for media reporting purposes.

Public interest newsgathering happens by the work and diligence of investigative journalists aided by various technical tools. Handheld cameras with long-range telephoto lenses and manned helicopters similarly outfitted now have been joined by the newest technology to help journalists collect information: the “drone” or to give it its proper name, the remotely piloted aircraft (RPA).

Small, inexpensive to purchase and portable, such devices provide new and advantageous ways to facilitate news coverage. Indeed, in reporting on situations of civil unrest or natural or man-made disasters (e.g., floods or accidents), RPAs offer the added advantage of keeping the journalists safer from hazards and able to report where they might be physically incapable of entering a zone.

Advances in this technology herald the age of so-called “drone journalism.” Indeed, a neologism has been coined for this phenomenon: *dronalism*. This new media tool will be buffeted by a plethora of issues, e.g., of safety, ethics and legality. Since, legally, a drone is an *aircraft*, news media organizations as well as freelance journalists have to interact with the civil aviation regulator and be knowledgeable about aviation law. But, the aviation regulator for the first time has to take account of media freedom rights.

Keeping in mind the neutral approach to technology by international standards, deploying RPAs for the purpose of journalism should be put under the dynamics of the exercise of freedom of expression and freedom of information, as just like a use of a camera for street photography, it facilitates the function of newsgathering¹.

¹ For example, in the Council of Europe the European Court of Human Rights has been robust in protecting the identity of a journalist’s source on the ground as necessary for the practice of free journalism. In *Haldimann and Others v Switzerland* (2015) it ruled in favour of journalists covertly filming a story uncovering malpractice of insurance brokers. Although the specific subject was a person with privacy rights, the context made it clear he was being targeted because of his profession, representative capacity.

Using a camera-equipped drone to report on public interest matters and events taking place in public areas should be seen as a legitimate exercise of the right to freedom of information. This also means that a balancing exercise has to be done to weigh the competing rights at stake, such as the right to privacy, according to the principles and limits established by international standards. Any blanket prohibition on using RPAs for journalism without a conscious and rational consideration of freedom of information rights will be flawed.

I recommend that participating States:

- (i) recognize that a use of drones by the journalists for newsgathering purposes engages a subset of the right of the media to publish news as well as the public's right to receive information and ideas;
- (ii) accept that it is not akin to other civilian uses of RPAs because the publication of news - and acts precedent thereto - is not just an activity comparable to others, but is an exercise of freedom of the media;
- (iii) encourage a legal and regulatory regime for the deployment of RPAs nationally which recognizes dronalism's unique and legitimate function for newsgathering purposes in the public interest.

I also recommend to media organizations to:

- (i) adopt a proactive, rational and balanced approach to this new technology which merits serious investigation and analysis into its uses and potential for aiding and facilitating news gathering;
- (ii) engage with national aviation regulators in order to make sure that the interests of newsgatherers are not arbitrarily excluded from the rule making regime for the deployment of drones, having special regard to the intrinsic connection between newsgathering using aircraft and the public's right to know;
- (iii) be aware of the accumulating evidence that the public has a high degree of faith in the operations of the professional drones to be sustained in terms of traceability, accountability and safety of reporting.

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