



**Organization for Security and Co-operation in Europe
The Representative on Freedom of the Media
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Accreditation of Foreign Journalists in the OSCE region

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I. Executive summary

As far back as the Helsinki Final Act the OSCE participating States have addressed the accreditation of foreign journalists, an issue that has recently become of increasing concern.

The report examines international standards, scholarly approaches and accreditation rules of ministries of foreign affairs in a number of the OSCE participating States, seeking to explore and clarify the legal nature and specifics of accreditation for foreign journalists. The report produces recommendations on how to harmonize these rules with international standards.

The report reveals that accreditation rules for foreign journalists in some participating States are often interpreted as a work permit and are thus inconsistent with international standards on freedom of expression.

Experts on international media law and freedom of expression generally agree that accreditation is necessary in connection with access to places with limited capacity or closed places, including dangerous areas or official events. Any limitations of accreditation should comply with the three-prong test established in Article 19(3) of the International Covenant on Civil and Political Rights and Article 10(2) of the European Convention on Human Rights.

The report notes that international standards make a minor distinction between accreditation for foreign and national journalists, which grant additional privileges to foreign journalists because of the specifics of their professional activities outside their home countries. These privileges involve receiving multiple-entry visas, permits for staying, assistance in travelling and the like. If foreign journalists do not need such additional privileges, accreditation should not be necessary.

The report provides the following main recommendations:

- Accreditation should provide privileges and improve working conditions for journalists in line with the main OSCE agreements, including the Helsinki Final Act;
- Accreditation should not be a precondition to obtain a visa or to enter a country;
- Accreditation rules should guarantee multiple-entry visas for accredited foreign journalists and multiple-entry long-term visas for journalists with permanent accreditation;
- Freelancers should have the right to be accredited;
- Accreditation rules should be clear and transparent, in particular, as to the terms and conditions for receiving accreditation as well as visas. This also concerns legitimate grounds for accreditation refusals and withdrawals;
- Accreditation rules should not contain excessive obligations, such as the disclosure of the amount of salary, journalistic pseudonyms or purposes of visits;
- Accreditation should not serve as a tool to control content;
- Accreditation should not be used as a sanction or restriction in response to media propaganda or other constraints.

II. Introduction

Accreditation can be crucial for journalists because it helps them to properly serve their functions of “public watchdogs.” Performing journalistic duties outside home countries is often a considerable challenge for media professionals, particularly if they have to work in dangerous zones such as areas of military conflicts or disasters.

However, accreditation often becomes a tool of control over the flow of information. Over the last few years, the OSCE Representative on Freedom of the Media expressed particular concern on abuses by accreditation schemes for foreign journalists that have become more frequent recently.

The report focuses on both theoretical and practical issues of accreditation. It examines international standards and scholarly approaches to clarify the legal nature of accreditation and to explore the specifics of accreditation for foreign journalists.

The report also studies accreditation rules for foreign journalists of ministries of foreign affairs in a number of the OSCE participating States. It reviews positive and negative practices of accreditation and sets forth recommendations on how to bring accreditation rules for foreign journalists in line with international standards.

III. Accreditation: A scheme, a pass or a right?

There is no unified approach to the legal nature of accreditation. The most common approach considers accreditation as **a system or a procedure, scheme or pass providing certain privileges for journalists**. As the 2006 Special Report of the OSCE Representative on Freedom of the Media “Accreditation of Journalists in the OSCE area: Observations and Recommendations” (hereinafter – the “2006 Special Report”) states, accreditation:

“allows journalists access to specific venues with limited space as well as access to certain ‘closed zones’, including war zones and places deemed dangerous, or sealed off by the authorities for safety reasons. It also allows journalists to participate in official events and visits.”¹

This approach notes the **practical** nature of accreditation² and stresses that journalistic privileges are provided with a specific purpose – **to realize the public right to freedom of information**.

According to this approach, the system of accreditation safeguards the free flow of information rather than the rights of journalists. Experts explicitly state that the purpose of accreditation is “not to recognize special rights or benefits for certain members of society (i.e. journalists), but to ensure a flow of information to the public.”³ Others note that accreditation always incurs journalistic duties to deliver the information they have received to general public through

¹ The Special Report of the OSCE Representative on Freedom of the Media “Accreditation of Journalists in the OSCE area: Observations and Recommendations.” Published on 25 October 2006. URL: <http://www.osce.org/fom/22065>

² Jan Oster. Media Freedom as a Fundamental Right /. Cambridge University Press. 2015. P. 134.

³ Paul Daudin Clavaud, Toby Mendel, Ian Lafrenière. Freedom of Expression and Public Order: Training manual. Published in 2015 by the United Nations Educational, Scientific and Cultural Organization. P. 34. URL: <http://unesdoc.unesco.org/images/0023/002313/231305e.pdf>

publications or broadcast.⁴ In other words, **this approach greatly relies on the right to freedom of information and expression**, and it implies **that any abuse by accreditation schemes primarily means a violation of the public's right to freedom of information rather than the rights of journalists.**

Freedom of information was proclaimed a “*fundamental human right*” and “*a touchstone of all the freedoms to which the United Nations is consecrated*” in the Resolution 59 (I)⁵ of the United Nations (UN) General Assembly adopted in its first session in 1946. Freedom of information is defined in all the UN documents as “*the right to gather, transmit and publish news anywhere and everywhere without fetters.*”⁶

Freedom of information is closely associated with the right to **freedom of expression** guaranteed in the main international documents such as the Universal Declaration of Human Rights (UDHR), Article 19⁷; the International Covenant on Civil and Political Rights (ICCPR), Article 19⁸, and the European Convention on Human Rights (ECHR), Article 10⁹. These documents guarantee the right to freedom of expression to everyone and “regardless of frontiers” noting the transnational nature of the right to freedom of expression. This represents an important guarantee for foreign journalists willing to work outside their own countries.

International standards do not consider freedom of expression to be an absolute right. It can be limited; however, these limitations must meet the criteria established in Article 19(3) of the ICCPR, Article 10(2) of the ECHR. This so-called three-prong test requires that: 1) limitations must be provided by law; 2) there must be a legitimate aim for limitations; 3) limitations of the freedom of expression must be necessary in a democratic society which means that, in the absence of a strong social need, limitations must not be imposed.

Therefore, the approach to accreditation as to a scheme system or pass implies that **limited accreditation systems or schemes are acceptable if only they comply with this test**. This was explicitly said by the UN Human Rights Committee in the 2011 General comment No. 34¹⁰ to Article 19 of the ICCPR. In this document, the Committee considers accreditation as **a scheme**, which should be compatible with Article 19.

The main OSCE documents have regularly addressed the freedom of expression and information. The OSCE (the CSCE at that time) was established during the period of Cold War to reduce tension in the regions, facilitate co-operation and exchange of information in the OSCE region. A great role to perform these tasks was entrusted to foreign journalists. Therefore, the OSCE participating States took the commitments to improve working conditions for journalists.

⁴ Steve Buckley, Kreszentia Duer, Toby Mendel, and Sean O Siochrú with Monroe E. Price, Mark Raboy. *Broadcasting, Voice, and Accountability: A Public Interest Approach to Policy, Law, and Regulation*. P.143. URL:

⁵ Resolution A/RES/59 (I) of the General Assembly of the UN. Adopted on 14 December 1946. URL: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/10/IMG/NR003310.pdf?OpenElement>

⁶ *Ibid.*

⁷ Article 19 of the UDHR guarantees everyone the right to freedom of opinion and expression and states that “*this right includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.*”

⁸ The ICCPR's Article 19 provides that the right to freedom of expression “*shall include the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other chosen media.*”

⁹ Article 10 of the ECHR states that the right to freedom of expression includes “*freedom to hold opinion and to receive and impart information and ideas without interference by a public authority and regardless of frontiers.*”

¹⁰ General Comment No. 34 to the ICCPR. Human Rights Committee 102nd session, Geneva, 11-29 July, 2011. URL: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

Laying down the main OSCE principles and commitments, the Helsinki Final Act¹¹ (1975) specifically says that the participating States:

“Make it their aim to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State [...]”

Similar commitment is enshrined in the 1989 Concluding Document of the Vienna Meeting.¹² Its Clause 34 states that the participating States:

“...will make further efforts to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and to improve the working conditions of journalists.”

In the 1994 Budapest Document,¹³ the participating States declared that safeguard of the right to freedom of expression would be their guiding principle and the media should be independent and pluralistic because they had been *“essential to a free and open society and accountable systems of government.”*

Any restrictions to the right to freedom of expression should be prescribed by law and in accordance with international standards, as the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE¹⁴ notes. In this document, the participating States also proclaimed that they would:

“take no measures aimed at barring journalists from the legitimate exercise of their profession other than those strictly required by the exigencies of the situation.”

In other words, the OSCE standards also suggest that accreditation should fully comply with international standards on the right to freedom of expression and information.

The OSCE documents interpret accreditation for foreign journalists as either a system or a pass. The 2006 Special Report defines accreditation as **a system** allowing journalists to have some privileges concerning access. The 1989 Concluding Document of the Vienna Meeting¹⁵ in Clause 42, most likely, understands accreditation in a narrower sense – as a **document (or pass)**

¹¹ Final Act of the Conference on Security and Co-operation in Europe. Adopted on 1 August 1975, Helsinki. In, Commitments: Freedom of the Media, Freedom of Expression, Free Flow of Information. CSCE and OSCE. 1975-2002. Second edition. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99565>

¹² Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference). Adopted on 15 January 1989, Vienna. In, Commitments: Freedom of the Media, Freedom of Expression, Free Flow of Information. CSCE and OSCE. 1975-2002. Second edition. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99565>

¹³ Budapest Document: Towards a Genuine Partnership in a New Era (Summit of Heads of State or Government). Adopted on 5-6 December 1994, Budapest. In, Commitments: Freedom of the Media, Freedom of Expression, Free Flow of Information. CSCE and OSCE. 1975-2002. Second edition. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99565>

¹⁴ The Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE. Adopted on 3 October 1991, Moscow. In, Commitments: Freedom of the Media, Freedom of Expression, Free Flow of Information. CSCE and OSCE. 1975-2002. Second edition. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99565>

¹⁵ Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference). Adopted on 15 January 1989, Vienna.

“granted” by the participating States to foreign journalists as a result of passing through some procedures if this pass is necessary.

Similar approach to accreditation is provided in the 2003 Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression.¹⁶ This document uses the wording “**accreditation schemes**” but also interprets accreditation as a **pass** that journalists receive to access place or event and that cannot be withdrawn based on content of journalistic publication.

Another approach is to consider **accreditation as a journalist’s right** itself. In this case, accreditation abuses may violate not only the public right to freedom of information but also the right of journalists to be accredited.

The European Court of Human Rights (ECtHR), whose rulings are binding for 47 of the 57 OSCE participating States, did not explicitly qualify accreditation as **a right** but, in its ruling on the case of *Loersch and Nouvelle Association du Courrier v Switzerland* (1995), it found no controversies in that the Swiss law had considered the accreditation as a specific journalistic right. In this case, the applicants claimed that imposing particular conditions on the grant of accreditation at the Swiss Federal Court had violated his right to freedom of expression. The journalists were required to pass legal training, provide a certificate as to police record and curriculum vitae to receive accreditation. The ECtHR found the application inadmissible stating that, under the Swiss law, **the right to be accredited was not absolute** and might be subject to particular conditions.

However, what was particularly important for the ECtHR in this case was that the applicants **were not denied access to information** because of the lack of accreditation. The hearings and judgments of the Swiss Federal Court were available to the public, and accreditation allowed only “easier” access to them. Particularly, the Federal Court Registry notified accredited journalists of the date and issue of hearings, they also automatically received rulings. Therefore, they could access the building and information without any accreditation, which it was not required at all. This is how the ECtHR clarified its decision.

This means that it is compatible with international standards to view accreditation as a certain **journalistic right**. According to this approach, the right to be accredited can be limited by national laws but these limitations must meet the same three-prong test as provided for any limitation to the right to freedom of expression.

It may seem that the UN Human Rights Committee put forward a different approach to accreditation in its decision on “*Gauthier v Canada*” (1999), when noting that accreditation “operates as **a restriction** of article 19 rights,”¹⁷ rather than a right, system or scheme. However, the Committee further stated that accreditation requirements must meet the three-prong test and “*its operation and application must be shown as necessary and proportionate to the goal in question and not arbitrary.*” Therefore, it can be concluded that, in this specific decision, the

¹⁶ The Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Adopted on 18 December 2003. In, *Joint Declarations of the Representatives of Intergovernmental Bodies to Protect Free Media and Expression*. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99558>

¹⁷ Robert W. *Gauthier v. Canada*, Communication No 633/1995, U.N. Doc. CCPR/C/65/D/633/1995. 5 May 1999. Human Rights Library of the University of Minnesota. URL: <http://www1.umn.edu/humanrts/undocs/session65/view633.htm>

Committee either understand accreditation as a **right** or **scheme**, which, nevertheless, may be used as a restriction in case of its misinterpretation. In other words, accreditation should be always compatible with the right to freedom of expression. This correlates with the abovementioned perspective stated by the Committee in the 2011 General comment No. 34¹⁸ that accreditation must be limited only in accordance to the three-prong test.

International standards, scholars and legal experts have expressed concerns on misinterpretation of accreditation as a **permission** “in that sense that a government or other regulatory body has the right to grant, deny or revoke a journalist’s accreditation.”¹⁹ Permissive schemes may vary but they are similar in that, instead of granting privileges, they impose **excessive duties and requirements** on journalists often with the aim to control their professional activities or to make their work impossible. Twenty-eight OSCE participating States in 2014 adopted at the EU Foreign Affairs Council, the Human Rights Guidelines on Freedom of Expression Online and Offline,²⁰ which mention arbitrary requirements for accreditation for journalists among examples of violations of the right to freedom of opinion and expression and notes that such requirements facilitate **ensorship**.

Therefore, it can be concluded that, from the perspective of international standards, the interpretations of accreditation – as a scheme or a pass as well as a journalistic right itself - are acceptable. The difference in the abovementioned approaches is minor. The approach considering accreditation a scheme or a pass focuses on a practical nature of accreditation, while the approach viewing accreditation places emphasis on media rights. Nevertheless, both approaches stress the importance of journalist accreditation for implementing the right to freedom of expression and information. These approaches allow limitations of accreditation if only they meet the requirements of the three-prong test provided for checking the limitations to the right to freedom of expression.

IV. Accreditation for foreign journalists: OSCE standards

The 1989 Concluding Document of the Vienna Meeting²¹ in Clause 42 enshrines the participating States’ obligation to grant accreditation to foreign journalists, “where it is necessary” or “required” and “for the purpose of regular reporting.” This means that accreditation **may not be necessary** but **(i) if it is necessary and (ii) if they deliver regular reports** then the participating States oblige to grant it. But when is accreditation for foreign journalists is necessary?

International standards and scholars suggest that accreditation for any journalists may be needed only to access **places with limited capacity or closed places, including dangerous areas**. In its 2011 General comment No. 34²² to Article 19 of the ICCPR, the UN Human Rights Committee states that accreditation is “permissible only where necessary to provide journalists with

¹⁸ General Comment No. 34 to the ICCPR. Human Rights Committee 102nd session, Geneva, 11-29 July, 2011.

¹⁹ The Special Report of the OSCE Representative on Freedom of the Media “Accreditation of Journalists in the OSCE area: Observations and Recommendations.” Published on 25 October 2006.

²⁰ Council of the EU. EU Human Rights Guidelines on Freedom of Expression Online and Offline. Council meeting Brussels, 12 May 2014. URL: http://eeas.europa.eu/delegations/documents/eu_human_rights_guidelines_on_freedom_of_expression_online_and_offline_en.pdf

²¹ Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference). Adopted on 15 January 1989, Vienna.

²² General Comment No. 34 to the ICCPR. Human Rights Committee 102nd session, Geneva, 11-29 July, 2011.

privileged access to certain places and/or events.” As said above, the 2006 Special Report suggests that accreditation relates only to access official events and visits or venues with limited capacity or zones closed for security reasons. In other cases, accreditation should not be required.

Because of the transnational nature of the right to freedom of expression, **international standards make no explicit distinction between accreditation of national and international journalists**. The professional functions and duties of journalists remain the same regardless of their place of operation – they serve as public watchdogs realizing the public right to freedom of expression and information. Foreign journalists receive accreditation for the same reason as national journalists, for instance, when they wish to attend official events, zones of disasters or military conflicts.

Nevertheless, working outside home countries may be particularly challenging for foreign journalists. Some journalists may need visas and additional assistance when travelling in a foreign country, such as help from security guards or guides. Therefore, the only difference between accreditation for national and foreign journalists is in that foreign journalists may need some **additional privileges as a result of accreditation**.

That is why the Concluding Document of the Vienna Meeting suggests that accreditation for foreign journalists may be particularly needed **if they wish to receive multiple visas**. That is why the OSCE standards state that accreditation may be necessary for providing regular reports. If journalists desire to regularly report from a foreign country they, most likely, wish to receive long-term multiple visas.

That is probably why, according to the OSCE standards, the participating States undertook an obligation to issue multiple entry and exist visas for **permanently accredited journalists** for one year (the Concluding Document of the Madrid Meeting²³) or any other specified period (the Helsinki Final Act). As to the foreign journalists with other accreditation, the Concluding Document of the Madrid Meeting does not stipulate the term for a visa. The Concluding Document of the Vienna Meeting merely says that the participating States had a commitment to grant to journalists multiple visas regardless of their domicile within two months together with the accreditation.

Nevertheless, visas should be granted to **non-accredited journalists**, as follows from many of the OSCE commitments obliging participating States to promptly consider applications for visas from any journalists. Furthermore, in the Concluding Document of the Madrid Meeting, the participating States claimed that they would promptly re-examine visa applications in case of refusals to any journalists. This means that, in general, **accreditation is unnecessary to receive visas**, according to the OSCE standards. However, the OSCE participating States are not obliged to grant to non-accredited journalists multiple visas, unlike accredited journalists.

It is also important to note that, as derived from the Concluding Document of the Madrid Meeting, journalists who **privately visit** other participating States do not need any accreditation at all because:

²³ Concluding Document of the Madrid Meeting (Second Follow-up Meeting to the Helsinki Conference). Adopted on 9 September 1983, Madrid. In, Commitments: Freedom of the Media, Freedom of Expression, Free Flow of Information. CSCE and OSCE. 1975-2002. Second edition. The OSCE Representative on Freedom of the Media Organization, 2013. URL: <http://www.osce.org/fom/99565>

“journalists wishing to travel for personal reasons and not for the purpose of reporting shall enjoy the same treatment as other visitors from their country of origin.”

To **accredited journalists**, the OSCE participating States also undertook commitments to facilitate **permits for staying** in a foreign country and to provide **official papers** which journalists may need (the Helsinki Final Act). In the Concluding Document of the Vienna Meeting, the participating States undertook obligation to ensure access to official press conferences or other official events **without accreditation** or “upon accreditation” if it is required (the Concluding Document of the Vienna Meeting). This means that if the official events are conducted in a place with unlimited capacity, accreditation for foreign journalists is **unnecessary** but it may be provided to ensure easier access to events.

In general, the OSCE participating States assumed **many commitments** concerning access to information as to journalists, regardless of whether they have accreditation or not, such as:

- Promptly reconsidering refusals in accreditation and visas (Concluding Document of the Madrid Meeting);
- Facilitating travel by foreign journalists within their territories, with the exception of areas closed for security reasons (the Helsinki Final Act; Concluding Document of the Madrid Meeting);
- Creating conditions for communications with sources of information including public officials (the Helsinki Final Act; Concluding Document of the Madrid Meeting; Concluding Document of the Vienna Meeting);
- Providing information, on request, on matters of practical concern, such as import regulations, taxation and accommodation (Concluding Document of the Vienna Meeting);
- Ensuring the right to import the technical equipment (photographic, cinematographic, tape recorder, radio and television) if it being taken out again (Helsinki Final Act);
- Respecting professional confidentiality (Concluding Document of the Vienna Meeting).

This also confirms that accreditation is unnecessary for journalists in order to work in other participating States. Furthermore, the abovementioned list of the obligations is not exhaustive, as derived from the commitments in the Concluding Document of the Madrid Meeting,²⁴ in which the participating States proclaimed that:

“They will also consider further ways and means to assist journalists from other participating States and thus to enable them to resolve practical problems they may encounter.”

Nevertheless, some of the OSCE clauses contain phrases, which may result in misinterpretations. For instance, the Helsinki Final Act Meeting notes that the participating States “enable” accredited journalists to transmit the results of their professional activity for the purpose of publication or broadcasting. This may be interpreted as a state’s “permission” to transmit information, which would violate international standards on freedom of expression and information and contravene general participating States’ commitments to assist foreign journalists and to improve their working conditions. Therefore, any ambiguous wordings should be interpreted in the light of international standards and other OSCE commitments. In this case “enable” is more likely to mean “provide with necessary means.”

Some of the OSCE provisions may look outdated because of technological advances. For instance, the Helsinki Final Act also sets up that the participating States will:

²⁴ Concluding Document of the Madrid Meeting (Second Follow-up Meeting to the Helsinki Conference).

“grant to journalists of the participating States the right to import, subject only to it being taken out again, the technical equipment (photographic, cinematographic, tape recorder, radio and television) necessary for the exercise of their profession”

Another example is in a clause in the Concluding Document of the Madrid Meeting allowing journalists to carry with them reference materials, notes and files *“to be used strictly for their professional purposes.”*

These provisions should be reinterpreted in the light of the modern circumstances because today personal devices are often used for professional purposes. Personal devices may contain plenty of information relating to both professional and private activities. The abovementioned provisions should not restrict journalists from bringing any technical devices, equipment or materials in a foreign country. Otherwise, they would be inconsistent with the international standards on the right to freedom of expression and with the OSCE aims and goals.

To sum up, the OSCE documents suggest that accreditation for foreign journalists is unnecessary but should be provided if it is needed for journalists to obtain additional privileges. As follows from the OSCE documents, foreign journalists may need accreditation if they wish to get multiple visas or to receive assistance with permits for staying or to access dangerous places or places with limited capacity, where official press conferences or other official events may be held.

V. Accreditation for foreign journalists with Ministries of Foreign Affairs in the OSCE region

Accreditation has been differently implemented across the OSCE region. In some of the OSCE countries, for example, the **UK, France, Portugal and Germany**, accreditation for foreign journalists is issued by **an independent body**, as provided by international standards. The 2003 Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression²⁵ suggests an independent body should oversee accreditation.

However, in most countries across the OSCE region, **ministries of foreign affairs supervise accreditation for foreign journalists**. In **Turkey** and in **Slovenia**, it is overseen by other state bodies. In Slovenia, the Ministry of Culture performs certain functions concerning the accreditation of foreign journalists²⁶. The Directorate General of Press and Information, a special institution of the Turkish government,²⁷ supervises accreditation for foreign journalists in Turkey.

Some of the OSCE countries consider accreditation **as a system or pass** granting certain **privileges to accredited journalists**. For instance, in **Sweden** and **Norway**, no general

²⁵ The Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Adopted on 18 December 2003.

²⁶ Foreign correspondents and correspondence offices in Slovenia. URL: http://www.mk.gov.si/si/storitve/postopki/mediji/vpis_v_register_tujih_dopisnikov_in_dopisnistev/navodila_eng/

²⁷ Accreditation for members of the international media assigned to Turkey permanently. URL: <http://www.byegm.gov.tr/english/foreign-press/permanent-accreditation>

accreditation for foreign journalists is required to perform professional activities in these countries. Non-Swedish media representatives with proper media credentials can work freely in Sweden within the general terms for visa, work permit, etc. Access to the facilities, information from the International Press Centre at the Ministry of Foreign Affairs of Sweden, including weekly e-mails with information about upcoming events, such as press briefings, seminars and openings, is granted to listed foreign correspondents²⁸. Individual accreditations may be required only to cover special events, which are announced in advance. Therefore, in Sweden, foreign media professionals are encouraged to inquire whether special accreditation may be necessary to access special events.

Similarly, in Norway, accreditation may be required for foreign press to visit some special places with limited capacity. Additionally, Norway has the International Press Centre (NIPS) offering favorable conditions for foreign journalists, including working places equipped with the broadband wireless Internet and other technical facilities²⁹. The center provides foreign journalists with the Norwegian and foreign daily press and organizes meetings with parliamentary members, other public officials and politicians.

The **U.S.** Department of State considers accreditation as a **building pass**. Accredited journalists and technicians, who do not hold a permanent building pass, may attend open press events³⁰. If journalists and media technicians wish to visit frequently (three times a week) the State Department, they can obtain a long-term building pass.

In the **Netherlands**, the Ministry of Foreign Affairs is open to visitors. The building is equipped with the press facilities that journalists may use upon showing a press card issued by the Dutch Union of Journalists (NVJ). However, this card is not required from foreign journalists. Media professionals are allowed to bring audiovisual equipment into the building but they should be accompanied by officers from the Information and Communication Department³¹.

Accreditation for foreign journalists is also unnecessary in **Czech Republic** and it has no impact on the process of obtaining a visa. Representatives of foreign media may apply for a long-term accreditation with the Ministry of Foreign Affairs. If they wish to access only certain events they may apply for a short-term accreditation³². However, the accreditation rules of the Czech Ministry fail to specify the benefits provided for accredited journalists.

Foreign journalists are not required to get accreditation for operating in the **Ukraine** due to 2011 amendments to the Statute of Ukraine “On Information.” Accreditation is necessary only for those journalists, who would like to access the “anti-terrorist operation area” in the east of the

²⁸ The International Press Centre at the Ministry for Foreign Affairs of Sweden. URL: <http://www.government.se/press/international-press-centre/>

²⁹ Norway International Press Centre (NIPS). URL: https://www.regjeringen.no/en/dep/ud/organisation/departments/department_culture/nips/id732775/

³⁰ U.S. Department of State, Office of Press Relations. URL: <http://www.state.gov/r/pa/prs/info/index.htm>

³¹ Rules for visitors to the Ministry of Foreign Affairs building in The Hague. URL: <https://www.government.nl/ministries/ministry-of-foreign-affairs/contents/contact/rules-for-visitors>

³² Press accreditation of the Ministry of Foreign Affairs of the Czech Republic. URL: http://www.mzv.cz/jnp/en/issues_and_press/accreditation_of_foreign_journalists/accreditation_of_foreign_journalists.html

country³³. Because of the 2011 amendments, foreign journalists have the same scope of rights as provided for national journalists³⁴.

However, in 2012, the representatives of foreign media in Ukraine sent a letter to Daria Chepak, the press secretary of the President of Ukraine. In the letter, media professionals complained that the new rules had considerably complicated their work in Ukraine. As they claimed, due to the change, they had to come back to their countries of residence to obtain a visa and to pass a registration process after the return to the Ukraine³⁵.

Accreditation rules for foreign journalists may be subject to abuse by accreditation agencies in many countries across the OSCE region and the abusive schemes are various. Instead of simplifying working conditions for foreign journalists, these states impose various excessive requirements, which the NGO Article 19, called “licensing schemes.”³⁶

In general, the following abusive schemes may be distinguished:

- Accreditation as a work permit
- Unclear rules for accreditation
- Granting of accreditation under selective conditions
- Accreditation as a mechanism of control over the content
- Arbitrary application of accreditation procedures
- Restrictions as a symmetrical response

a) Accreditation as a work permit

Understanding accreditation as a work permit contravenes the OSCE commitments to improve “working conditions for journalists,” and it represents a disproportionate and unnecessary interference into freedom of expression and information. This approach to accreditation makes professional activity of non-accredited foreign journalists in a number of states impossible or extremely difficult.

Dunja Mijatović, the OSCE Representative on Freedom of the Media, noted that “accreditation should not be a license to work and the lack of it should not restrict journalists in their ability to work and express themselves freely.”³⁷ As the 2006 Special Report notes, accreditation should facilitate work of journalists rather than permitting it.

In some countries, accreditation rules of ministries of foreign affairs explicitly state that accreditation for foreign journalists is a work permit. Sometimes, while not specified,

³³ Informacija shhodo akreditacii inozemnih zhurnalistiv, jaki hochut' vidvidati zonu ATO (Information on accreditation of foreign journalists wishing to visit the ATO zone). URL: <http://mfa.gov.ua/ua/press-center/news/33416-informacija-shhodo-akreditaciiinozemnih-zhurnalistiv-jaki-khochuty-vidvidati-zonu-ato>

³⁴ Akkreditacija inostrannyh SMI v Ukraine (Accreditation of foreign media in Ukraine). URL: <http://russia.mfa.gov.ua/ru/press-center/notices/576-akreditaci-inozemnih-zmi-v-ukrajini>

³⁵ Inozemni zhurnalisti skarzhat'sja Chepak na skladnist' otrimannja akreditacij i viz (Foreign journalists complain Chepak the difficulty of obtaining visa and accreditation). 28 February 2012. Telekritika. URL: <http://www.telekritika.ua/news/2012-02-28/69970>

³⁶ Article 19. International standards: Regulation of media workers. Published on 5 April 2012. URL: <https://www.article19.org/resources.php/resource/3021/en/international-standards:-regulation-of-media-workers>

³⁷ OSCE representative calls on Belarusian authorities to repeal accreditation requirements for journalists. 17 June 2014. URL: <http://www.osce.org/fom/119875>

accreditation may perform this function, as seen from the examination of these rules. For instance, the rules of the Ministry of Foreign Affairs of Belarus state that:

*“A foreign journalist is not allowed to carry out his or her professional activities without an accreditation card.”*³⁸

In Belarus, accreditation is a prerequisite for obtaining a visa for foreign journalists. Additionally, the rules of the Ministry of Foreign Affairs of Belarus do not specify which benefits accreditation provides.

In 2014, Andrey Meleshko, a Polish freelance journalist, was fined for working in **Belarus** without accreditation³⁹. Ales Zalevski and Alexander Denisov, journalists of Poland-based Belsat TV, were also convicted by courts and fined on the same administrative charges⁴⁰. Warnings have been issued to Svetalana Stepanova, Yevgeniy Skrebets, Yulia Sivets, Nikolay Benko and Yuri Deshuk for their affiliation with media outlets not officially registered in the country. Article 11 of the mass media statute establishes a compulsory procedure for the state registration of outlets. These decisions were held in contradiction to international standards but in full compliance with the national legislation.

In order to obtain permanent accreditation with the Ministry of Foreign Affairs of **Belgium**, foreign journalists must obtain a temporary press card which has the status of a work permit, as explicitly stated in the accreditation rules of the Ministry of Foreign Affairs of Belgium⁴¹.

According to the rules, a press card cannot be issued without a D visa. The visa procedure may take several months and the exact term is not specified. However, visas and accreditation serve different purposes and these processes cannot be equated.

In Belgium, the temporary press card allows journalists to obtain a permanent press card from the North Atlantic Treaty Organization (NATO) and to apply to the IPA (International Press Association in Brussels) for a permanent Belgian press card. Journalistic activities without a temporary press card are not permitted. Holders of a permanent press card have the same status as Belgian journalists. In general, journalists, who need a permanent press card must pass the accreditation procedure twice in Belgium. They first get a temporary press card and, only after that, can they apply for a permanent Belgian press card. These regulations significantly complicate the working conditions of foreign journalists in Belgium.

In general, countries tend not to abuse by distinction on permanent and temporary accreditation. In some countries, there are two types of accreditation – temporary and permanent or short-term and long-term or long-term accreditation and accreditation for special events. In most cases, journalists can choose certain type of accreditation depending on the duration of the mission, for example, in Belarus and Russia. In Estonia and Lithuania, there is no distinction on permanent and temporary accreditation; accreditation cards are issued for a fixed term.

³⁸ Regulations for the Accreditation of Foreign Journalists in Belarus. Enacted by Bylaw of the Belarusian Council of Ministers No. 2015 dated 25/12/2008. URL: http://mfa.gov.by/upload/vv/accreditation_foreign_journalists.pdf

³⁹ OSCE representative calls on Belarusian authorities to repeal accreditation requirements for journalists. 17 June 2014. URL: <http://www.osce.org/fom/119875>

⁴⁰ Ibid.

⁴¹ Accreditation rules of the Press Office of Federal Public Service (FPS) Foreign Affairs, Foreign Trade and Development Cooperation. URL: http://diplomatie.belgium.be/en/Newsroom/journalists_corner/accreditation

Unlike Belarus and Belgium, the ministries of foreign affairs of **Latvia**⁴², **Lithuania**⁴³ and **Moldova**⁴⁴ do not explicitly state that accreditation exercises permissive function. However, the accreditation rules of their ministries fail to specify which privileges accreditation provides for foreign journalists.

Furthermore, in Latvia, an accreditation card is key condition to obtain visa. Similarly, in order to receive an accreditation in Lithuania, foreign journalists have to address a diplomatic mission or a consular post of Lithuania in their own countries. The Embassy of the Republic of Moldova will be entitled to issue an entry visa only upon preliminary consideration of a specific journalist's request. Therefore, entry visas to Latvia, Lithuania and Moldova depend on accreditation of foreign journalists; this means that accreditation may exercise a permissive function in these states. This is confirmed by the fact that in September 2015 the crew of the Russian TV channel, LifeNews, which arrived in Chisinau, Moldova, to cover the protests, was not allowed to enter the country because of the lack of accreditation⁴⁵. Furthermore, in Moldova, journalists must resubmit to Ministry of Foreign Affairs those documents that have been previously sent by fax, together with their press cards and passports.

Additional procedures that may be qualified as “arrival control” have been also introduced in some other OSCE participating States. For instance, after arriving to Belgium, foreign journalists must contact the Press Office to arrange an appointment to collect their temporary press cards. They must also go to municipal authorities of their place of residence within eight days after their arrival in Belgium, so that journalists would be included into a register of foreign nationals. In Russia, foreign journalists and members of their families are also required to undergo registration with the respective bodies of the Ministry of Internal Affairs of the Russian Federation within three days of their arrival to Russia. Although in principle some of these may be consistent with international standards, the states should strive not to complicate working conditions of foreign journalists by obliging them to pass through various bureaucratic procedures, in line with the OSCE commitment to improve working conditions for foreign journalists.

Accreditation at the Ministry of Foreign Affairs of **Russia** is also a prerequisite for obtaining a visa⁴⁶. Moreover, the cases of Yevgeny Agarkov⁴⁷, a Ukrainian reporter for “Spetskor,” a program of the Ukrainian channel 2+2, and Esa Tuominen⁴⁸, a Finnish freelance journalist, have confirmed that, in Russia, accreditation is considered as work permit. These foreign journalists were fined in 2014 and 2016 respectively because of the lack of accreditation.

⁴² Procedure for permanent accreditation of foreign media representatives to Latvia. 28 April 2016. <http://www.mfa.gov.lv/en/news/procedure-for-permanent-accreditation-of-foreign-media-representatives-to-latvia>

⁴³ Accreditation of the Ministry of Foreign Affairs of the Republic of Lithuania. URL: <https://www.urm.lt/default/en/press-centre/accreditation>

⁴⁴ The Procedure of Accreditation of Foreign Media Representatives with the Ministry of Foreign Affairs of the Republic of Moldova. URL: <http://www.mfa.gov.md/foreign-journalists-accreditation/>

⁴⁵ Pogranichnaja policija: u zhurnalistov LifeNews ne bylo akkreditacii (Border Police: LifeNews journalists were not accredited). 7 September 2015. Sputnik Moldova. URL: <http://ru.sputnik.md/politics/20150907/1651511.html>

⁴⁶ The rules of accreditation and stay of correspondents of foreign mass media on the territory of the Russian Federation. 13 September 1994. URL: http://www.mid.ru/ru/press_service/journalist_help/reglament/-/asset_publisher/pky0IzcRFTwe/content/id/608736

⁴⁷ Summary of attacks on media. 31 August 2015. Reporters Without Borders. URL: <https://rsf.org/en/news/summary-attacks-media>

⁴⁸ Regular Report to the Permanent Council for the period from 27 November 2015 through 9 March 2016. 10 March 2016. URL: <http://www.osce.org/pc/227291?download=true>

The accreditation rules of the Russian Ministry of Foreign Affairs guarantee certain advantages for accredited journalists. Accredited foreign journalists have the same scope of rights and duties as Russian journalists. According to the rules, accredited journalists, as well as members of their families “may use the services that are provided by the appropriate subdivisions of the Ministry of Foreign Affairs of Russia for the diplomatic corps in Russia.” However, the mechanism for providing these services is not specified and it is unclear which services are available to accredited journalists. Consequently, it is largely uncertain which benefits accreditation provides for journalists.

b) Unclear rules for accreditation

Permissive schemes may also emerge from unclear rules. International standards require that the accreditation rules should be transparent and clear enough. In the abovementioned decision on “Gauthier v Canada,” the UN Human Rights Committee stated that:

“the relevant criteria for the accreditation scheme should be specific, fair and reasonable, and their application should be transparent.”

In their 2003 Joint Declaration, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression⁴⁹ specified that:

“accreditation decisions should be taken pursuant to a fair and transparent process, based on clear and nondiscriminatory criteria published in advance.”

The accreditation rules for foreign correspondents’ accreditation with the Ministry of Foreign Affairs of **Poland** and **Kazakhstan** lack clarity and transparency. In Poland, accreditation is required to cover special events upon a valid press card. The web site of the Ministry contains information about the accreditation renewal⁵⁰ but it has no information about obtaining accreditation. The Ministry of Foreign Affairs of Kazakhstan also fails to establish an accreditation procedure. It merely provides information on a set of documents required for foreign journalists⁵¹. The lack of clarity in available accreditation rules for foreign journalists in Poland and Kazakhstan may cause abuses by accreditation.

According to the rules of the Ministry of Foreign Affairs of **Estonia**, accreditation is unnecessary for foreign journalists. Holders of the press card receive materials from the Ministry. At the same time, the accreditation criteria are inaccurate and may cause arbitrarily refusals in accreditation or its termination:

“The [Accreditation] Committee shall evaluate documents presented by the journalist and on that basis as well as on the basis of other relevant circumstances the Committee shall make to the Director General of the PDD [Public Diplomacy Department] one of the following recommendations: 1. to accredit the journalist; 2. to refuse accreditation; 3. to invalidate an accreditation decision; 4. to terminate an accreditation prematurely and to declare a press card null and void.”⁵²

Only in few countries, such as **Belarus**, **Russia**, **Estonia** and **Latvia**, the accreditation rules clarify grounds for accreditation refusals and withdrawals.

⁴⁹ The Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Adopted in 18 December 2003.

⁵⁰ Information for foreign correspondents accredited to Poland by the MFA. URL: http://www.msz.gov.pl/pl/aktualnosci/dla_mediow/korespondenci_zagraniczni/

⁵¹ Accreditation of foreign journalists in Kazakhstan. URL: <http://mfa.gov.kz/index.php/ru/press-tsentr/akkreditatsiya-zarubezhnykh-smi/perechen-neobkhodimykh-dokumentov-dlya-akkreditatsii>

⁵² The Procedure for the Accreditation of Journalists Representing Foreign Media 03.01.2007 Regulation No 4 of the Minister of Foreign Affairs of 13 November 2006. URL: <http://www.vm.ee/en/procedure-accreditation-journalists-representing-foreign-media>

c) *Granting of accreditation under selective conditions*

These schemes include excessive requirements, for instance, to have a certain educational background, a clean criminal record, or a contractual relationship with the mass media. OSCE Representative Mijatović noted that journalism is treated differently – as a skill, talent or even a passion “to tell the truth, to inform, to reach others, to communicate news using any means necessary.”⁵³ Therefore, no specific educational background or job affiliation is necessary to perform journalistic functions.

The 2006 Special Report also notes that the OSCE Commitments:

“underline the civic nature of journalism, which entitles civilians to fulfil the function of freelance or Internet journalists and this right allows civilians to interact both with the local and international media.”

Therefore, any restrictions as to receiving accreditation for freelance journalists or journalists working for the new media are excessive.

In general, technological advances have significantly transformed the media landscape worldwide and have triggered a reconsideration of the notion of media and journalists at both national and international levels. For instance, the 2011 Recommendation of the Council of Europe’s Committee of Ministers on a New Notion of Media suggests reconsideration of media legislation:

“to encompass all actors and factors whose interaction allows the media to function and to fulfill their role in society.” As the document notes, this is vital *“to ensur[ing] the highest protection of media freedom and to provid[ing] guidance on duties and responsibilities.”*

Therefore, authors who work for online media-like services should also receive accreditation in order to participate in ensuring the right to freedom of expression and information.

As shown in the Table, in most countries, both employees of the media organizations and freelancers can be accredited. However, in some cases, ministries of foreign affairs accredit only employees. Several states, such as **Latvia**, **Russia** and **Belarus**, use unclear formulations (“the representatives of the media”) that may result in misinterpretations.

The accreditation rules of the Ministry of Foreign Affairs of **Belgium** provide that foreign journalists may apply for a temporary press card only if journalism is their main professional activity and is “how they earn a living in Belgium.” Applicants must specify how many years they have been working for as professional journalists and disclose the amount of their salaries.

Freelancers must submit the proof of receiving payments for journalistic work over the past six months (copies of invoices and bank statements). It is unclear how these data influence the decision on whether to accredit a journalist or not.

Journalists applying for accreditation in **Estonia** must submit a copy of the certificate of professional journalism. If journalists come from the countries where no such certificates are issued, they should provide a document certifying a working experience of at least two years as journalists. In general, such regulations impose unnecessary layer of requirement to media

⁵³ The OSCE Representative on Freedom of the Media. Safety of Journalists – Why It Matters. Published in 5 December 2011. URL: <http://www.osce.org/fom/101983>

professionals complicating the process of accreditation and violating the right to freedom of information.

d) Accreditation as a mechanism of control over the content

These schemes to not accredit or to withdraw accreditation for political reasons violate the OSCE commitment to ensure functioning of independent and pluralistic media and seriously suppress the public right to freedom of expression and information. Therefore, the 1989 Concluding Document of the Vienna Meeting in Clause 39 bans content-based expelling of journalists or withdrawals of their accreditation because of their publications in the following way. The OSCE participating States:

“Recalling that the legitimate pursuit of journalists’ professional activity will neither render them liable to expulsion nor otherwise penalize them, they will refrain from taking restrictive measures such as withdrawing a journalist’s accreditation or expelling him because of the content of the reporting of the journalist or of his information media.”

Similarly, the 2003 Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression⁵⁴ claimed that:

“Accreditation should never be subject to withdrawal based only on the content of an individual journalist’s work.”

In some of the OSCE countries, ministries of foreign affairs request personal information concerning applicants for accreditation. Such information may be used arbitrarily and sometimes allows exercising control over journalistic content.

Belarus, Czech Republic, Latvia, Poland and Kazakhstan require foreign journalists to provide curriculum vitae and/or information about applicants’ journalistic activities. In general, an accrediting body may require **a curriculum vitae** of an applicant, as follows from the ECtHR perspective formed in the abovementioned ruling on *Loersch and Nouvelle Association du Courrier v Switzerland* (1995). However, from the ECtHR viewpoint, this requirement is permissible if only it does not prevent journalists from access to information or place or event. This requirement cannot be used as a tool to control content and to refuse in accreditation or to withdraw it because of journalists’ biography details, political views, etc.

This also relates to the requirement to provide **information about media organizations** existing in **Belarus, Latvia, Lithuania and Kazakhstan**. Sometimes, subject matter or specialization of outlets may become a cause for content-based refusals or withdrawals, in contradiction to international standards. For example, in Belarus, several correspondents from foreign outlets, including Radio Free Europe/Radio Liberty and BBC, were denied accreditation to cover the May 2014 hockey championship, supposedly because the International Ice Hockey Federation “favored specialized sports media”⁵⁵. The journalists who were allowed to cover the

⁵⁴ The Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Adopted in 18 December 2003.

⁵⁵ Belarus. Freedom of the Press 2015. Freedom House. URL: <https://freedomhouse.org/report/freedom-press/2015/belarus>

championship had to receive separate accreditation from the Ministry of Foreign Affairs to cover other topics while staying in the country.

Particular concerns emerge from the requirement to specify in the application **pseudonyms** used by journalists, which exist in the accreditation rules of the **Polish** Ministry of Foreign Affairs. This requirement allows control over journalistic materials even if they have been published under another name.

International standards specifically safeguard journalist pseudonyms and anonymity under two human rights: the right to freedom of expression and to privacy. In particular, the UN Special Rapporteur on freedom of expression⁵⁶ stated:

“Encryption and anonymity provide individuals and groups with a zone of privacy online to hold opinions and exercise freedom of expression without arbitrary and unlawful interference or attacks.”

Any requirement to disclose journalistic personality, therefore, is subject to scrutiny under the same three-prong test that applies to any other speech restrictions.

The ministries of foreign affairs of **Estonia, Latvia, Poland** require that foreign journalists provide **descriptions of their creative work or earlier published articles by the journalist**. This information may also allow authorities not to accredit certain journalists for political reasons.

In 2016, **Turkey** rejected the application for accreditation of Silje Rønning Kampesæter, a correspondent of a Norway’s newspaper, Aftenposten. As a result, she would not be granted a residence permit⁵⁷. Espen Egil Hansen, Aftenposten’s chief editor, said, “It seems more likely that the real reason for denying Kampesæter the press visa is her reporting from Kurdish areas and the border of Syria.”

Content-based withdrawals or suspensions of accreditation for foreign journalists are not permissible, from the perspective of international standards, because they represent a violation of the right to freedom of expression. However, there have been several examples of violations of this rule. Above are some of them.

In 2016, Hasnian Kazim, a correspondent of the German magazine Der Spiegel, left Turkey after the Turkish government had refused to renew his press pass, which makes his journalistic work nearly impossible. According to the statement of Florian Harms, Spiegel Online's editor in chief, Kazim's reports were written with a fair but critical approach⁵⁸.

Specifying **the purpose of a visit** is another excessive and arbitrarily requirement for foreign journalists that may be used to execute content control which exists in Belarus and Latvia. This information is not only unnecessary but it also may be used for not accrediting journalists if their purposes are inconsistent with government policies.

⁵⁶ Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/29/32. 22 May, 2015. URL: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A.HRC.29.32_AEV.doc

⁵⁷ Aftenposten is being thrown out of Turkey. 9 February 2016. Aftenposten. URL: <http://www.aftenposten.no/nyheter/uriks/Aftenposten-is-being-thrown-out-of-Turkey-8349321.html?xtatc=INT-55-%5B4%5D>

⁵⁸ Turkey: A 'danger zone' for journalists. 26 April 2016. Deutsche Welle. URL: <http://www.dw.com/en/turkey-a-danger-zone-for-journalists/a-19215761>

Additionally, the Accreditation Commission of the MFA of Estonia may selectively invite journalists to interviews. This impose unnecessary layer of bureaucracy on foreign journalists, thus complicating the process of obtaining accreditation.

e) Arbitrary application of accreditation procedures

Arbitrarily schemes varies across the OSCE region but they are similar in that they aimed at restraining the flows of information and suppressing oppositional voices thus considerably violating the freedom of expression and information.

Although **Ukraine** does not require foreign journalists that they receive accreditation, the Security Service of Ukraine (SBU), at the Ukrainian parliament's request, has drawn up a list of Russian media outlets whose journalists in Ukraine are being stripped of their accreditation with state institutions. The list contains nearly 110 media outlets⁵⁹. Mijatović said that the measures limiting some Russian journalists to fulfill their professional activities in Ukraine are excessive⁶⁰.

The accreditation rules of the **Moldovan** Ministry of Foreign Affairs do not request foreign journalists specify the purpose of their visit. However, this requirement has become a tool to prevent journalists from performing professional activities in the country. In January 2016, journalists of the Russian TV stations VGTRK, LifeNews, Pervyj Kanal, and REN TV, as well as of news agencies, TASS and RIA, were denied entry to Moldova because they failed to state the purpose of their visit⁶¹.

In 2015, there were at least seven cases in which the authorities in Moldova imposed similar restrictions on journalists from Russian media outlets. Several times, Mijatović raised concerns on the issue⁶². The authorities accounted these measures for the need to resist propaganda and noted that, in most cases, the journalists did not properly inform the border police about the actual purpose of their visits⁶³. The approach to accreditation as to a **counterpropaganda measure** is completely inconsistent with international standards that explicitly state that withdrawals of accreditation or expulsion cannot serve as sanctions because of journalistic content.⁶⁴

The **Turkish** authorities often ban entrance for foreign journalists without any explanation. This can be illustrated by several examples of refusals in April 2016, when several foreign journalists were denied entry to Turkey⁶⁵. Among them was Volker Schwenck, a journalist from ARD, the German public broadcaster, who was traveling to the Syrian-Turkish border to interview

⁵⁹ Summary of attacks on media. 31 August 2015. Reporters Without Borders. URL: <https://rsf.org/en/news/summary-attacks-media>

⁶⁰ Restrictive measures toward Russian journalists reporting from Ukraine excessive, OSCE Representative says. 26 February 2015. URL: <http://www.osce.org/fom/142896>

⁶¹ OSCE Representative calls on authorities in Moldova to allow free and unhindered work of journalists. 23 January 2016. URL: <http://www.osce.org/fom/217826>

⁶² Report by the OSCE Representative on Freedom of the Media, Ms. Dunja Mijatović. 18 June 2015. URL: <http://www.osce.org/pc/165276>

⁶³ OSCE Representative calls on authorities in Moldova to allow free and unhindered work of journalists. 23 January 2016. URL: <http://www.osce.org/fom/217826>

⁶⁴ See, for instance, the 1989 Concluding Document of the Vienna Meeting, Clause 39.

⁶⁵ CPJ writes to Turkish foreign minister about barring of foreign journalists. URL: <https://cpj.org/2016/05/cpj-writes-to-turkish-foreign-minister-about-barri.php>

refugees. Turkey also banned David Lepeska, a freelance correspondent, who had written for Al Jazeera, London's Guardian newspaper and The New York Times. The journalist tried to communicate with the Turkish government, the Turkish Embassy in Washington, as well as the Turkish Consulate in Chicago for additional information, but he had no success.

Another journalist, who was not allowed to enter Turkey without an explanation, was Tural Kerimov, the Turkey bureau chief of the Russian state-owned news agency Sputnik. He was not allowed entering Turkey despite the fact that he held a valid press card and residency permit⁶⁶.

Giorgos Moutafis, a Greek photographer who was traveling to Libya via Turkey on assignment with Bild, was not allowed to enter Turkey. The journalist had recently published images of the Syrian refugee crisis in various European publications. He said passport control officials told him his name “was on a list and [he] was not allowed to enter” and failed to elaborate the reasons for that. Such lists of “unwelcome” journalists represent a significant threat to the right to freedom of expression and information and, as EU Parliament President Martin Schultz said, “Lists of names of journalists have no place in democracies⁶⁷”.

These cases may have political motives behind the restrictive decisions, which violates the right of journalists to freedom of expression and information.

f) Restrictions as a symmetrical response

In **Belarus** and **Russia**, the accreditation rules of their ministries of foreign affairs for foreign journalists allow application of countermeasures against journalists from those countries that have introduced restrictions with respect to Belarusian journalists. In Russia, this concept of a “symmetrical response” is even a broader concept than in Belarus. The Russian Ministry of Foreign Affairs may take “tit-for-tat” actions as to correspondents from the mass media of the countries, which have established any restrictions with regard to the Russian citizens, not only as to journalists. This abusive interpretation of accreditation as permission, or even a sanction is incompatible with international standards.

The application of this restriction can be illustrated by several cases. In 2014, Poland's Internal Security Agency declared that professional activities of Leonid Svidirov, a journalist from the Russian state news agency Rossiya Segodnya, had threatened national security and requested that he be removed from the country⁶⁸. After that, the Russian Ministry of Foreign Affairs withdrew the accreditation of Waław Radziwinowicz, a Polish correspondent from Gazeta Wyborcza as a “symmetrical response”⁶⁹.

In 2016, the Ministry of Foreign Affairs of Czech Republic refused to accredit Alexander Kuranov, a Czech correspondent from RIA Novosti, a Russian government-owned news agency, and Vladimir Snegiryov, a reporter from Vechernyaya Moskva, a Moscow daily newspaper⁷⁰. In

⁶⁶ CPJ writes to Turkish foreign minister about barring of foreign journalists. 3 May 2016. Committee to Protect Journalists. URL: <https://cpj.org/2016/05/cpj-writes-to-turkish-foreign-minister-about-barri.php>

⁶⁷ Growing concerns over a reporter 'black list' in Turkey. 26 April 2016. Deutsche Welle. URL: <http://www.dw.com/en/growing-concerns-over-a-reporter-black-list-in-turkey/a-19215157>

⁶⁸ Poland. Freedom of the Press 2015. URL: <https://freedomhouse.org/report/freedom-press/2015/poland>

⁶⁹ MID Rossii dlja «simmetrii» lishil akkreditacii pol'skogo zhurnalista (Russian Foreign Ministry withdrew the accreditation of Polish journalist for “symmetry”). 18 December 2015. Novaya Gazeta. URL: <http://www.novayagazeta.ru/news/1698882.html>

⁷⁰ Czech diplomats to explain rejected Russian reporters to Moscow. 14 April 2016. Prague Monitor. URL: <http://praguemonitor.com/2016/04/14/czech-diplomats-explain-rejected-russian-reporters-moscow>

response, the Russian Ministry of Foreign Affairs claimed: “We resolutely protest Prague’s counterproductive conduct, which is sure to bring about a corresponding reaction”⁷¹.

VI. Recommendations

- Accreditation may be interpreted as a scheme, system or right but it should not function as permission. Accreditation rules should improve the working conditions for journalists rather than damaging them. This is necessary to ensure the public right to freedom of information.
- Any limitation on accreditation must meet the criteria established in Article 19(3) of the ICCPR and Article 10(2) of the ECHR. These limitations must be provided by law, pursue a legitimate aim and be necessary in a democratic society, *i.e.* there must be a strong social need for such limitations.
- Accreditation may be necessary if only foreign journalists wish to access specific venues with limited space or zones closed for safety reasons or if they wish to receive multiple-entry visas. The participating States are welcome to provide accreditations for foreign journalists to access other places or events but such accreditation should be unnecessary in these cases.
- Accreditation should not be a precondition to obtain a visa or to enter a country. However, accreditation rules should guarantee the prompt receipt of multiple visas for accredited foreign journalists. For permanently accredited foreign journalists, multiple long-term visas should be guaranteed in accreditation rules.
- Accreditation should not function as a work permit. The participating States should abolish excessive requirements equating accreditation scheme with the process of obtaining visas or work permits.
- Excessive requirements to obtain accreditation should be removed from accreditation rules. Foreign journalists should neither be required to disclose their salary, nor provide detailed descriptions of publications. They should not be obliged to specify the purpose of their visits.
- Ideally, accreditation for foreign journalists should be overseen by an independent body. Nevertheless, accreditation rules for foreign journalists should be clear and transparent. Web sites of accredited body should explicitly state, under which conditions foreign journalists receive accreditation and in which terms.
- To further facilitate free flows of information, the freelance journalist should have the right to be accredited.
- Privileges provided to accredited journalists should be clearly set out in accreditation rules.

⁷¹ Comment by the Information and Press Department on the Czech authorities’ refusal to accredit Russian journalists Alexander Kuranov and Vladimir Snegirev. 13 April 2016. URL: http://www.mid.ru/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/2229507/pop_up?_101_INSTANCE_cKNonkJE02Bw_viewMode=print&_101_INSTANCE_cKNonkJE02Bw_languageId=en_GB&_101_INSTANCE_cKNonkJE02Bw_qrIndex=0

- The participating States should respect the right of foreign journalists not to disclose pseudonyms.
- The participating States should strive not to complicate working conditions of foreign journalists including by obliging them to pass through various bureaucratic procedures upon arrival.
- Accreditation rules should also establish legitimate grounds for accreditation refusals and withdrawals. They represent extreme measures and should not be serve as sanctions for professional activities or content.
- Accreditation refusals or withdrawals cannot serve as counterpropaganda measures or as a tool of a “symmetrical response.” No lists of “unwelcome” journalists are acceptable.
- Accreditation rules should oblige an accrediting body to provide the reasons for accreditation refusals or withdrawals.

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