



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

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**Regular Report to the Permanent Council**

Mr. Chairman, Excellencies, Ladies and Gentlemen,

This report is presented to you as our Office reaches its tenth anniversary. We have received numerous congratulations, but I feel that the OSCE as a whole, including its participating States, should be congratulated for establishing and maintaining this unique Institution, the only intergovernmental media freedom watchdog in the world.

On this occasion, on 29 February 2008, the Office hosted an expert panel. The event was initiated by the Finnish Chairman in Office, demonstrating the importance the chairmanship ascribes to press freedom commitments within the OSCE.

The Secretary of State of the Finnish Ministry of Foreign Affairs, Pertti Torstila; the OSCE Secretary General, Marc Perrin de Brichambaut; and the Director of ODIHR, Christian Strohal, addressed the gathering. Freimut Duve, the first Representative from 1998 to 2004, greeted the meeting over the phone.

An impressive array of speakers outlined current and emerging challenges that we face on a daily basis. All geographical areas and all major issues were scrutinized, including cases where states tolerate harassment, or where murders of media workers occur; where pluralism is considerably restricted by undue governmental influence over broadcasting or publishing; where investigative rights for journalism regarding governmental data are denied; where offending or critical views are often punished, almost mechanically, as 'extremism' or 'hate speech'.

The tensions since 2006 over secular depictions of religious figures, as well as the wave of criminalization of certain interpretations of history, were given special attention by several speakers, and by the famous *Le Monde* cartoonist Plantu.

I would like to specifically call attention to the presentation of Thomas Hammarberg, the Human Rights Commissioner of the Council of Europe, who, on behalf of his organisation, joined my Office's appeal to participating States to decriminalize the professional mistakes of journalists - such as defamation and insult - and to allow these offences to be treated exclusively in civil courts.

In my address, I raised attention to an emerging trend that I find more worrying than all our above-mentioned everyday challenges.

Unfortunately, today we see a certain 'meltdown' of OSCE commitments. Their universality is being questioned. Ten years ago, the establishment of this office marked a moment when all participating States committed themselves to the universal values of democracy, including the protection of free expression and media pluralism. Today, just as in the days before the formation of the OSCE, different interpretations of democracy are being cultivated again, also with regards to speech rights. The requests for co-operation from the OSCE Institutions mandated to care for the fulfilment of the human rights commitments again are sometimes regarded as 'intrusion into internal affairs'.

Notwithstanding old and new challenges, all governments, civil societies, and journalists in our participating States can count on the dedication of this Office to keep the OSCE media freedom commitments alive, and advocate for compliance.

I wish to express my appreciation to the governments of **Finland, Germany, and the Netherlands**, which contributed to make the anniversary event and the forthcoming publication possible.

**In this report**, you will find:

- a summary of the issues that we have raised with participating States;
- a follow-up on our special report 'Handling of journalists during political demonstrations';
- an account of our project activities;
- a list of legal reviews prepared for participating States.

### ***Issues Raised with Participating States***

#### **Armenia**

**On 4 March 2007**, I called on the authorities to lift restrictions on independent news reporting that have been in place since the state of emergency was declared on 1 March. President Robert Kocharian's decree obliges the Yerevan media to cite only official sources when reporting on national politics.

The non-state broadcast media has been limited to re-airing official news and programmes. Several independent and opposition websites have been blocked, and foreign radio and television coverage on Armenia has been restricted.

I noted that the state of emergency should not diminish the public's right to news from diverse sources. Pluralistic reporting helps ensure transparency of governmental action even in dire times.

I believe the existing legal provisions against incitement to violence should be sufficient to tackle any potential misuse of speech rights, and should not be replaced by pre-emptive restrictions.

**In my 20 December 2007 letter** to Minister of Foreign Affairs, Vartan Oskanian, I raised the case of *Gala TV*, a regional broadcaster in the town of Gyumri that was facing law suits for tax evasion and for its use of a municipal TV tower.

I asked the authorities to work to preserve the existing pluralism, and find a compromise settlement of the issue, so that *Gala TV* can continue broadcasting.

**I also asked the law enforcement agencies** to investigate the 13 December 2007 explosion in front of an opposition newspaper, *Chorrord Ishkhanutyun*.

I look forward to receiving an answer from the Armenian authorities.

### **Azerbaijan**

**On 2 January 2008**, I welcomed President Ilham Aliyev's decision to pardon five of the imprisoned journalists: Rovshan Kabirli and Yashar Aghazade, editor-in-chief and editor from the newspaper *Mukhalifat*; Faramaz Novruzoglu, correspondent from the newspaper *Nota Bene*; and Samir Sadagatoglu and Rafiq Tagi, editor-in-chief and correspondent of the newspaper *Senet*.

At the same time, I urged the authorities to release the three media workers who were not pardoned: Eynulla Fatullayev, editor-in-chief of *Realniy Azerbaijan* and *Gundelik Azerbaijan*, and the brothers Genimet and Sakit Zahidov of the newspaper *Azadliq*.

**On 17 December 2007**, I raised the case of Ilgar Nasibov, a correspondent of *Radio Free Europe/Radio Liberty*. He received a suspended one year prison sentence, for the alleged libelling of a Member of Parliament, who is also the President of the Nakhichevan University. The prosecutor accused Nasibov to be the author of an article that the newspaper *Azadliq* published back in May 2006, which was also found on his home computer hard disk. Nasibov denies the authorship. He also declares that he has never contributed to *Azadliq*, a statement confirmed by *Azadliq*. The trial was held behind closed doors.

**On 18 and 20 January**, Avaz Zeynalli, editor of *Khural* weekly, and Vugar Gurdganli, one of its journalists, were sentenced to two, and one and a half years of forced labour respectively, for libelling a regional administration head.

**On 21 January 2008**, the Grave Crimes Court sentenced Mushfig Huseynov, a correspondent of *Bizim Yol*, to six years of imprisonment under Article 311 of the Criminal Code ('bribing an official') for accepting a bribe. He was also banned from exercising his profession as a journalist for two years after his release from prison.

The harshness of this sentence is as unprecedented as the application of Article 311 against a journalist.

**This new jurisprudence** seems to continue in a current investigation against Nusrat Rahimov, founder of the *Azerbaijan Junhuriyyati* newspaper, who is held in custody for allegedly receiving a bribe from a member of parliament.

I have received a letter from the authorities in response to my request for information on the above three cases. It stated that all the above decisions were taken in full accordance with the existing legislation.

**On 10 March**, I protested against the four-year prison sentence handed down to the editor-in-chief of the opposition newspaper Azadliq Ganimat Zahidov. He is the brother of the imprisoned journalist Zahid Zahidov.

Ganimat Zahidov was convicted for “deliberately causing light injuries” and “hooliganism” in a trial in which the court did not allow key defence witnesses to testify. The charges were brought against him after a street skirmish on 7 November 2007.

I continue to encourage the Azerbaijani authorities to stop imprisoning critically minded journalists, and start reforming its handling of the media.

I am in contact with the Azerbaijani authorities and am glad to visit the country in the near future.

### **Belarus**

**On 18 January 2008**, I protested against the severe three-year high-security prison sentence handed down by a court, behind closed doors, to Alexander Zdvizhkov, ex-deputy editor of *Zhoda* newspaper. The case - for 'incitement of religious hatred' - started in 2006, when *Zhoda* reprinted the controversial cartoons from the Danish newspaper *Jyllands-Posten*.

Zdvizhkov was arrested in November 2007, after returning to Belarus, having spent the meantime in Russia and Ukraine.

I am glad to report that Zdvizhkov was released on 22 February 2008, after the Supreme Court reduced his three years sentence to three months, equal to the term that he had already served. I welcome the decision; at the same time I call on the authorities to reform the legal media framework of the country, in order to preclude the misuse of hate speech regulations for persecuting journalists.

**On 20 December 2007, I condemned the sentencing** of *Novy Chas*, a small newspaper that was founded and produced by the former editorial staff of disbanded *Zhoda*. *Novy Chas* was ordered to pay 16,000 euros in damages to Nikolay Cherginets, the chairman of the foreign affairs committee of the upper chamber of Parliament and at the same time head of the Writers' Union. *Novy Chas* had made critical comments about Cherginets' political and literary activities. The paper lost its appeal at the Minsk City Court early February, which means that the newspaper may be closed soon.

**The Office continues to co-operate** with the Belarusian Government on the draft Law ‘On Information, Informatization and the Protection of Information’. We have received the second draft of the law from the authorities, and we were glad to see that several changes proposed by our first legal review have been incorporated. Further details can be found in the ‘Legal Reviews’ section of this report.

I hope that prior to the parliamentary hearings of the draft in April 2008, my Office, jointly with the OSCE Office in Minsk, could present the review at a roundtable in Minsk.

## Canada

**I welcome** a unanimous decision by the Ontario Appeals Court of 13 November 2007 in a defamation case, which affirmed the media's right to publish even inaccurate information, provided they did so in good faith and in the public's interest.

The decision means that, in the future, carrying out responsible journalism in the public interest should be a defence against libel and slander suits for the news media. The decision referred to a case involving an Ontario police officer, who sued *The Ottawa Citizen* for defamation over an article published in 2001, which suggested that he had acted improperly.

## France

Several cases of prosecutorial attempts in France at getting journalists to reveal their confidential sources, highlights the need for more efficient provisions to protect journalists' sources.

**Therefore, on 14 January**, in a letter to President Nicolas Sarkozy, I welcomed his announcement to introduce in 2008 new legislation to protect journalists' confidential sources from being revealed, and their offices and homes from searches aimed at identifying such sources.

I also welcomed a broadcast reform suggested by President Sarkozy that would eliminate advertising on public-service channels, but at the same time would enable the public service to get a share of the advertisement revenues collected at the commercial channels.

If backed by the necessary legal and financial details, which need to be worked out in co-operation with all stakeholders, this reform could serve in many countries as a model for the ailing 'dual system'. The co-habitation of public and commercial broadcasting is currently in crisis in many countries, and especially in most of the post-1989 democracies, because the public channels have to compete with the private ones on the advertising market. If reformed along the proposed lines, the success of the commercial channels could feed, rather than starve, the public-service broadcasting, and also enhance its independence from government.

**In another letter** to the President on 21 February 2008, I expressed my concerns following his criminal lawsuit against the website of *Le Nouvel Observateur*, following a piece that made allegations about his marriage. Even though the article might have been irresponsible journalism, I asked the President to pursue the matter in a civil-law procedure.

## Georgia

**I have been closely monitoring** the situation around *Imedi TV*, the most watched private TV broadcaster in Georgia that, together with *Kavkazia*, a Tbilisi-based TV station, and the *25 Channel* from Batumi, was closed down in the course of the November 2007 state of emergency.

I traveled to Tbilisi, together with Peter Semneby, the EU Special Representative for the South Caucasus, to help find a solution to the crisis. In my meetings with President Mikheil Saakashvili, Speaker of Parliament Nino Burjanadze, Foreign Minister Gela Bezhuashvili, the Head of the Georgian Communications Commissions (GNCC) Giorgi Arveladze, and the management of *Imedi TV*, we agreed on the resumption of the station's work by early December, the beginning of the presidential electoral campaign.

I was glad to see the return of broadcasting pluralism in Georgia. Unfortunately, on 26 December, *Imedi TV* ceased broadcasting again, after numerous staff members resigned in a protest against interference with its editorial independence by its late owner, then presidential candidate, Badri Patarkatsishvili.

**The crisis over *Imedi TV*** has revealed that the authorities have to improve the transparency of ownership of means of communication. Guarantees of independence and pluralism of the media have to be reinforced. Political interferences with both public-service and private broadcasting outlets have to be stopped. The upcoming parliamentary elections in May can serve as a test of a renewed self-restraint by the government, as well as vigilance against favouritism by the journalistic community.

### **Germany**

As I informed you in my previous report to the Permanent Council, in October 2007, in a letter to Justice Minister Brigitte Zypries, I addressed the issue of the new law for telecommunication surveillance. While the law acknowledges journalists' rights to refuse testimony about their sources, it still puts the protection of journalists from surveillance measures into a lower category than what priests, parliamentarians, and defence lawyers will enjoy. I believe this arrangement would limit journalists' right to protect the sources of their pieces scrutinizing government. Shielding investigative journalists from surveillance is as much a constitutional value in a democratic society as, for example, shielding defence lawyers from surveillance.

Unfortunately, the draft was adopted by the Bundestag without the proposed changes on 9 November 2007. On 26 November, I was glad to receive the Minister's answer, in which she expressed the government's position that a further enhancement of protection of journalists from surveillance is not constitutionally necessary. In fact, a number of German journalist associations and unions challenged the law at the German Constitutional Court. I continue to follow the developments.

### **Hungary**

**On 27 November**, following the short arrest of two journalists at an unauthorized demonstration in Budapest, I asked the Hungarian police to guarantee the right of journalists to cover any public event, regardless of whether it was authorized or not. I also called on journalists to visibly identify themselves as media professionals, preferably with the help of authorized vests.

On the ensuing negotiations between law enforcement and the journalistic community, please see our follow-up to our June 2007 'Report on Handling of the Media during Political Demonstrations' later in this document.

**On 19 December**, I greeted the long-due acquittal of Antónia Rádi, a leading Hungarian investigative journalist, who had been on trial since 2003 on breach of secrecy charges. My Office was allowed to follow the closed trial in an observer status. I also called on the Hungarian authorities to reform legislation on disclosing state secrets. The country still follows the obsolete practice of punishing civilians, among them journalists, for the publication of classified information.

### **Italy**

**In my 21 December 2007 letter** to the authorities, I raised the case of journalist Giuseppe d'Avanzo, whose house was searched by the police on 13 December 2007, following his

publishing of transcripts of phone conversations, which were tapped by law enforcement. The police were trying to identify the journalist's confidential sources.

I was glad to receive a prompt reply and references to the relevant Italian legislation from the Head of the Permanent Delegation of Italy. He also assured me that my suggestions for improvement of the legal framework for the protection of journalists' confidential sources would be duly considered by the government.

### **Kazakhstan**

**In December 2007 and in January 2008**, at least three websites hosting independent media, including [www.zonakz.net](http://www.zonakz.net), [www.kub.kz](http://www.kub.kz) and [www.geo.kz](http://www.geo.kz), were temporarily inaccessible. Allegedly, access to these websites was blocked by Kazakhstan's near-monopoly, state-dominated Internet Service Provider (ISP) Kazakhtelecom.

I asked our colleagues from the OSCE Office in Astana to bring my concerns to the attention of Minister of Culture and Information, Yermukhamed Yertysbayev. I presented my Office's recommendations on the media freedom on the Internet. I hope that the authorities will ensure a blocking-free operation of the Internet in Kazakhstan.

**I continue to assist the authorities** in reforming the country's media legislation. Although the April 2007 NGO-formulated draft was recently revoked by Parliament, the dialogue between the authorities and the media community should continue so that Kazakhstan can adopt the legislation signalled by Minister Yertysbayev in his July 2007 address to the Permanent Council.

Regarding the legal reviews provided to Kazakhstan, please see the relevant section later in this report.

### **The former Yugoslav Republic of Macedonia**

**On 29 January 2008**, I joined the call of the OSCE Spillover Monitor Mission to Skopje, asking the authorities to urgently react to a series of violent acts against journalists.

On 26 January 2008, the owner of *Kanal 77 Radio*, Goran Gavrilov, was attacked in front of his house in Stip and brutally beaten. The Ministry of the Interior immediately launched an investigation and up to date three persons were detained and charged with attempted murder.

An earlier attack on 26 September 2007 by special police unit Alfa against a cameraman from *ALSAT M TV* led to the removal of the officers from duty.

No new developments are reported in the 24 September 2007 case of the attack against a journalist by a political party-hired body guard in the Parliament, even though the incident was filmed.

### **Montenegro**

**On 6 March 2008**, I wrote to newly appointed Prime Minister of Montenegro, Milo Djukanovic, asking him to drop a one million Euro lawsuit filed against the daily *Vijesti* and its director, Zeljko Ivanovic. The journalist was severely beaten in Podgorica on 1 September 2007. Thereafter he made claims that, as a former president and prime minister, Mr. Djukanovic holds responsibility for creating an atmosphere where violence against journalists is acceptable.

I asked Mr. Djukanovic to drop the case, because I believe that the suit is inconsistent with his public status, both as a former and the current Prime Minister. According to international standards, for the sake of free discussion in society, elected officials are to tolerate harsher criticism than ordinary citizens.

### **Poland**

**In my 15 January 2008 letter** to newly appointed Minister of Foreign Affairs, Radoslaw Sikorski, while congratulating him, I invited the new Government of Poland to consider decriminalizing defamation.

The previous Polish Government opposed decriminalisation of defamation. Since early 2005, I had to intervene with the Polish authorities in four cases where criminal sentences were handed down to journalists, including suspended prison sentences. That made Poland the only country in the European Union where journalists are actually sentenced to prison for defamation.

**I asked the new government** to use the opportunity to liberate the media from fear of imprisonment for possible professional mistakes, by letting defamation cases be solved in civil courts.

### **Russian Federation**

**During the campaign leading up to the 2 December Duma elections**, several press freedom commitments were not met. On 4 December 2007, I submitted a report to Foreign Minister Sergey Lavrov, on cases of harassment of media outlets, legislative limitations, and arbitrary application of rules during this campaign, which prevented equal access to the media by the competing political forces.

On 10 December, the press department of the Ministry of Foreign Affairs issued a commentary regarding my report, which the Head of the Permanent Delegation of the Russian Federation to the OSCE handed over to me as the official answer of the Ministry to my letter.

The report can be found at <http://www.osce.org/item/28666.html>. The commentary by the Ministry can be found at [http://www.in.mid.ru/brp\\_4.nsf/f68cd37b84711611c3256f6d00541094/e0a4052f81b80867c32573ae005bcdae](http://www.in.mid.ru/brp_4.nsf/f68cd37b84711611c3256f6d00541094/e0a4052f81b80867c32573ae005bcdae).

**During the election campaign leading up to the 2 March 2008 presidential election**, based on the available monitoring results, the trend of a lack of equal access in the broadcast media seemed to continue. The then-candidate of United Russia, President-elect Dmitry Medvedev, refused to take part in the candidate discussions organized by television channels, but received more face, voice, and coverage time than the other candidates.

**On 18 December 2007 and 21 January**, I asked the Russian authorities for information about the case of Natalia Morar, a well-known investigative journalist of the Moscow-based magazine *Novoye Vremya*, who was denied re-entry to the Russian Federation and had to return to Moldova, her home country.

No reasoning was given for the denial, except that it was ordered by the Federal Security Service (FSB) based on 'national security considerations'. On 27 February 2008, Ms. Morar, who had lived for ten years in Russia, and in the meantime married her Russian fiancé in Moldova, was again denied entry to Russia.



Morar's pieces included reports on the murder of the Deputy Director of the Central Bank. Her most recent article, *The Black Cash Desk of the Kremlin* («Черная касса Кремля»), covered alleged illegal financing of parties by state companies through the presidential administration during the 2008 elections to the Russian State Duma.

In reply to my enquiry, I was officially informed that Russian law-enforcement agencies have the legal right to deny entry to Russia to any person who they deem to be a danger to the country's security, without any explanation.

I find this answer unsatisfactory. The arbitrary expulsion of a journalist violates the OSCE commitments on freedom of expression and freedom of movement, both of which are core principles of the Helsinki process.

I will continue to follow this case in the hope that the Russian authorities will review the procedure, so that Natalia Morar could return to Russia to continue her work.

### **Serbia**

**In a statement on 25 February 2008**, I joined the OSCE Mission in Belgrade raising the incidents where journalists were prevented from doing their work while covering political demonstrations.

Journalists in Belgrade covering a protest on 21 February 2008 as a reaction to Kosovo's proclamation of independence suffered physical attacks. For details, please see the follow-up section on the handling of journalists during political demonstrations.

**In the above statement**, I also decried the threats received by media for their reporting. In these cases, mere reporting on differing views regarding the Kosovo declaration was sufficient to be exposed to threats. The director of the TV station *B 92*, Veran Matic, and his family received death threats via email. He filed criminal charges against unknown assailants.

I call upon the Serbian authorities to continue to speak up and act against such practices. Verbal violence can lead to physical violence, as we have seen on repeated occasions. It is a basic OSCE commitment that governments uphold the right of the media to convey differing opinions, even in times of tension or heated debate.

### **Slovakia**

**On 18 January, I wrote to Foreign Minister Ján Kubiš**, asking the Slovak Government to withdraw its draft Press Act from Parliament in its current version. I also offered my Office's assistance to prepare a legal review with recommendations. My early warning was prompted by the fact that the draft contained provisions that would severely restrict editorial autonomy, and could turn government officials into 'judges' of media content. This could lead to arbitrary political use of the law.

On 7 February, I was invited to Bratislava to meet with Minister of Culture Marek Mad'arič and State Secretary Ivan Sečík, to discuss the controversial sections of the draft. A week later I submitted an independent legal review of the draft law, containing key recommendations and highlighting international standards. See details in the section on our recent legal reviews.

I have been in continuous contact with the Slovak authorities, and on 28 February I also met with Mr. Kubiš to discuss this issue. Although the Parliament voted for the unchanged draft after its first reading, I have received assurances from the authorities that our recommendations would be implemented before the draft's second reading. The amendments are currently being prepared for committee and plenary level discussions in Parliament, and my Office stands ready to continue assisting in this process.

### **Slovenia**

**On 21 January 2008**, following my request to provide information on the background of the 'Petition against Censorship and Political Pressures on Journalists in Slovenia', signed by many journalists, the Government expressed willingness for a dialogue with the signatories on the state of media freedom in the country. I will continue to follow this matter.

### **Uzbekistan**

**On 3 February 2008**, I was glad to hear that journalist Umida Niyazova was amnestied. Originally, she had been sentenced to a prison term on three accounts, including 'production and distribution of materials containing a threat against public safety or public order', which was later mitigated to a suspended sentence. It is good to know that she is free. In order to prevent future criminalization of journalists, I ask the authorities to review the underlying legal provisions.

**On 6 February 2008** I asked the authorities to facilitate the resolution of the seizure by the Customs of my Office's 2005 publication titled '21<sup>st</sup> Century Challenges for the Media in Central Asia'.

I hope that the OSCE Project Co-ordinator in Tashkent and the relevant authorities can find a solution, and the books will reach their readers.

### ***Follow-up on the RFOM report 'Handling of journalists during political demonstrations'***

During the reporting period, my Office received reports of clashes between media professionals and police during political demonstrations, rallies or other public events. The following is a non-exhaustive list of such incidents reported.

The list proves that the issue of this type of violence against journalism remains crucial in the OSCE area. I reiterate the main finding of our special report, published in June 2007 ([http://www.osce.org/documents/rfm/2007/06/25176\\_en.pdf](http://www.osce.org/documents/rfm/2007/06/25176_en.pdf)). On the one hand, the police should always guarantee the right of journalists to cover any public event, regardless of whether it was authorized. On the other hand, journalists should visibly identify themselves as media professionals, they should make sure that their reporting does not inflame the situation, and they should refrain from participating in the demonstration.

#### **➤ Armenia**

The police prevented several journalists from covering the 19 February 2008 presidential election and the events that followed it:

**On 19 February 2008**, Samvel Avakyan, a correspondent of the Yerevan opposition newspaper *Ayk* was beaten up by policemen when he attempted to report about the situation at a Yerevan

market, where policemen were allegedly handing out ballots to people, putting them into buses to be driven to various polling stations of the city.

**On 28 February 2008**, policemen attacked a photographer of the Aravot and Chorrord Ishkhanutyun, Gagik Shamshyan, on the Liberty Square in Yerevan, thus preventing him from exercising his professional duties.

➤ **Belarus**

One journalist was sentenced to 15 days in prison, and three other interrogated in Minsk after covering an unsanctioned rally of entrepreneurs in Minsk on 10 January 2008.

Arseny Pakhomov, a freelance photographer of the independent weekly *Nasha Niva*, was arrested and sentenced to 15 days in prison for participating in an unsanctioned rally and petty hooliganism.

Freelance television journalists Galina and Vladimir Samoilov and Valery Buldyka were detained and interrogated for three hours; their equipment was confiscated.

➤ **Hungary**

In late November 2007, as mentioned above, I intervened in the case of the temporary arrest of two journalists covering an unauthorized demonstration in Budapest.

I greet the fact that the negotiations between law enforcement agencies and the media community have ended, and the two sides have agreed to a joint set of recommendations to ensure the safety of journalists during demonstrations. Currently, both the police and the Association of Journalists are issuing visibility vests to journalists.

➤ **Kyrgyzstan**

On 20 December 2008, two journalists were detained during a protest rally after the parliamentary elections. Tolekan Ismailova, a correspondent of *24.kg* news agency, and Nazgul Turdubekova, a reporter of the *Deutsche Welle*, were detained while they were covering the protest.

➤ **Russian Federation**

On 26 January, journalists who attempted to cover a violently suppressed street rally in Nazran were themselves detained and some of them were beaten in Nazran, the capital of the southern Russian Republic of Ingushetia, before being deported to the neighboring Russian republic of North Ossetia.

The nine journalists involved in this incident were Vladimir Varfolomeyev, Roman Plyusov, (independent radio station *Ekho Moskvy*), Semyon Eryomin, Konstantin Shelyapin, and Andrei Zhilnikov (St. Petersburg-based independent television *Channel 5*), Said-Khussein Tsarnaev, (state news agency *RIA-Novosti*), Mustafa Kurskiev, (newspaper *Zhizn za nedelyu*), Danila Galperovich (*Radio Free Europe/Radio Liberty*) Olga Bobrova (newspaper *Novaya Gazeta*).

Yekaterina Sokiryanskaya and Tamerlan Akiyev, activists of the human rights NGO Memorial, were also prevented from filming the rally.

➤ **Serbia**

On 21 February 2008, as mentioned in the section on interventions, journalists in Belgrade covering a protest against Kosovo's proclamation of independence endured physical attacks. Two Russian journalists from *Russia Today* and photographer Dirk-Jan Visser from Holland's *NRC Handelsblad* suffered injuries.

A crew of Radio Televizija Srbije (RTS) was attacked during a separate protest.

➤ **Switzerland**

**On 26 January 2008 in Basel**, while trying to prevent an unauthorized, so called 'chaos-demonstration' against the Davos World Economic Forum, police temporarily detained two journalists working for both national and foreign media.

Upon my inquiry, I was informed by the Delegation of Switzerland, that an investigation by the cantonal police of Basel is ongoing. An independent report on the case, published on 6 March 2008, concluded that the detentions were not justified.

The police of Basel accepted this criticism, and as a result of the incident the police corps intends to hold talks with journalists' association, in order to agree on common procedures for easy identification of journalists, given the wide range of press cards in circulation.

### ***Projects & Activities since the last report***

#### **Visit to the Council of Europe, 23-24 January 2008, Strasbourg**

**On 23-24 January 2008**, I paid a visit to several high officials of the Council of Europe (CoE) to discuss issues of common interest and reinforce cooperation in certain areas.

I met with CoE's Secretary General, Terry Davis, the Commissioner for Human Rights, Thomas Hammarberg, the standing rapporteur on media issues and member of the Parliamentary Assembly of the Council of Europe (PACE), Lord Andrew McIntosh, the Director General of Human Rights and Legal Affairs, Philippe Boillat, and other officials.

The visit emphasized that legal standards established by the Council of Europe are a solid base in RFOM's work to promote compliance of participants States with the OSCE's media freedom commitments. The CoE's standards codify the minimum that is expected from a European democracy.

Our partners outlined the plans for the next European Ministerial Conference dedicated to media, scheduled to take place in Reykjavik in May 2009.

Several topics were raised during the two-day visit.

- **Access to information**

A Draft European Convention on Access to Official Documents is currently in the making. On 9 January 2008, I approached those Heads of Delegations to the OSCE which represent countries which are also member of the Council of Europe. I highlighted the main deficiencies of the draft

Convention and asked the Heads of Delegations to forward my concerns to their respective Government bodies. As the draft stands now, it sets only minimum standards on access, although many states have enacted far more progressive laws. The following essential improvements need to be made:

- The scope of the treaty should include all information held by all bodies, including legislative and judicial authorities;
  - The treaty should require the states to set a maximum period for responding requests;
  - The treaty should guarantee individuals access to an appeals body that is able to order releases of information in cases of unjustified denial;
  - The treaty should guarantee the right to appeal all administrative violations that infringe on their right of access;
  - Proactive publication of information should be required by the treaty.
- **Decriminalization of defamation**

During my talks with Secretary General Davis and human rights commissioner Hammarberg, I extended my gratitude for their public statements supporting the decriminalization of defamation. I also thanked Lord Andrew McIntosh for the adoption by the CoE Parliamentary Assembly of Resolution 1577 (2007) 'Towards Decriminalisation of Defamation', which calls on the CoE member states to abolish imprisonment for defamation. It also asks the states to remove any increased protection for public figures in accordance with the European Court of Human Rights' case-law.

### **Hearing before the Helsinki Commission in Washington D.C.**

**On 10-15 December 2007**, I visited Washington for a Hearing in Congress, chaired by Alcee Hastings, Chairman of the Commission on Security and Cooperation in Europe (the Helsinki Commission) on the situation of media freedom in the OSCE region.

The issues discussed included violence against journalists; restrictions of media pluralism and governmental influence over broadcasting; criminalization of journalism.

I also voiced my support for the draft of a Federal-level 'shield law' (H.R. 2102) which would protect the right of journalists not to reveal their confidential sources. I noted that the adoption of this overdue law would set a positive example for other OSCE countries.

During my Washington visit, I met the Chairman of the House Committee on Foreign Affairs, Representative Tom Lantos, and received his assurances of his support for the journalist shield law in the U.S. I also thanked him for his public protest against acquiescence by certain U.S. IT firms to filtering and blocking in countries where Internet is censored.

I was shocked to hear of his death on 11 February. His relentless care for human rights made him a role model worldwide .

## **Protection of journalistic sources - ECHR**

**I am pleased to report** on a landmark ruling of the European Court of Human Rights (ECHR) on a case which I followed for several years.

In its ruling of 27 November 2008, the ECHR held that a raid on journalist Hans-Martin Tillack's home and office in early 2004 in Brussels was a violation of his right to freedom of expression. Tillack, a correspondent of *Stern* magazine, reported on alleged corruption at the Anti-Fraud Agency of the **European Union** (OLAF).

The court said that it was 'evident' that the real purpose of the searches was to identify the journalist's source. It added that a journalist's right to protect his or her sources was not a 'mere privilege' but 'part and parcel of the right to information,' and therefore had to be treated with 'utmost caution'.

## **Self-regulation**

**On 12 February 2008**, I congratulated the journalists of **Kyrgyzstan** on the launch of an independent media self-regulatory body, the first in Central Asia. I hope that this initiative will encourage media professionals in other countries of Central Asia to create similar accountability systems. Let me recall, that self-regulation was the topic of the ninth Central Asia Media Conference, organized by the RFOM in Dushanbe in November 2007.

## **Broadcast regulation in the digital age**

**On 3 December 2007**, my Office held an 'Expert Hearing on Broadcast Regulation in the Digital Age' in Vienna. Media officers from a number of OSCE field presences were invited.

Experts including from the British Ofcom, the European Platform of Regulatory Authorities (EPRA), and the EU Commission outlined the regulatory challenges to freedom of the media in times of digital convergence. In the EU the switchover to digital TV is scheduled for 2012 the latest. This might allow for more pluralism, but, at the same time, the potential convergence of regulatory authorities might pose dangers to freedom of the media.

As there is no internationally recognized standards and only few good practices, extensive consultancy and utmost transparency and evaluation is needed in each country, the experts stressed.

My Office will continue to follow these developments and advise on them.

## **Joint Declaration by global media freedom rapporteurs**

**On 8 December 2007**, I issued a joint declaration together with my counterparts of the United Nations, the Organisation of American States and the African Union. The focus of this year's meeting, facilitated by Article 19 in Amsterdam, was the new role and scope of government involvement in safeguarding diversity in the era of digital broadcast.

The joint statement emphasized the potential for more diversity following the future multiplication of available channels. But it warned that some broadcasting types which remain

essential for democracy, such as public-service and community media, may be endangered.

The four rapporteurs called for less regulation, in particular for less licensing, and thereby less governmental involvement. They also called for safeguarding pluralism, especially in news broadcast, and securing enough frequencies for economically weaker programmes, such as community or minority language broadcast. Since public-service broadcasting will gain importance as a reliable source for pluralistic information in the digital era, special attention must be given to its financing and independence.

The joint declaration is available at: [https://www.osce.org/documents/rfm/2007/12/28855\\_en.pdf](https://www.osce.org/documents/rfm/2007/12/28855_en.pdf)

## ***Legal Reviews***

### ➤ **Belarus**

My Office continues to co-operate with the Belarusian authorities on the draft Law 'On Information, Informatization and the Protection of Information'. My Office has commissioned a legal analysis of the second draft of this law, which will be discussed at the next session of the House of Representatives of the National Assembly.

I hope that prior to this parliamentary hearing, my Office, jointly with the OSCE Office in Minsk, could organize a round table discussion of the draft in Minsk.

### ➤ **Kazakhstan**

Following a request from the Government of Kazakhstan, my Office commissioned legal reviews of several legislative proposals concerning the media. An expert from a Moscow-based media law institute analyzed the draft Media Law and the amendments to defamation articles of the Criminal and Civil Codes («О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам диффамации в СМИ») submitted in one package to the Parliament on 18 April 2007.

We also reviewed the December 2007 draft amendments of the defamation provisions of the Criminal and Civil Codes of the Republic of Kazakhstan elaborated by the Ministry of the Interior («О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам диффамации в СМИ»)

The documents are downloadable in Russian and English at:

<http://www.osce.org/item/29833.html> (English);  
<http://www.osce.org/item/29833.html?lc=RU> (Russian);  
<http://www.osce.org/item/29834.html> (English);  
<http://www.osce.org/item/29834.html?lc=RU> (Russian).

On 25 February 2008 in Astana, together with the OSCE Centre, my Office organized a round-table to present both reviews to government officials, parliamentarians, representatives of the non-governmental sector, media lawyers, journalists and experts involved in the drafting process of the media legislation.

## ➤ **Slovakia**

As mentioned above, I commissioned an analysis of the draft Press Act, containing practical recommendations on how to bring the draft into line with the country's international commitments to protect media freedom.

The review was prepared by ARTICLE 19, a leading global freedom of expression and freedom of information organization.

The document is downloadable in Slovak and English at [http://www.osce.org/documents/rfm/2008/02/29687\\_sl.pdf](http://www.osce.org/documents/rfm/2008/02/29687_sl.pdf) (Slovak) and [http://www.osce.org/documents/rfm/2008/02/29687\\_en.pdf](http://www.osce.org/documents/rfm/2008/02/29687_en.pdf) (English).

## ***Internet***

### **Regulation**

My Office received information that in a number of participating States - including Azerbaijan, Belarus, Russia, and Kazakhstan - the introduction of new legislation to regulate the Internet is discussed.

Our Office holds that Internet regulation should be limited to areas where it is absolutely unavoidable, and it should be clearly based on constitutional values and international commitments such as freedom of expression and the free flow of information. Guarantees of freedom of the media hosted on the Internet shall also be explicit in any upcoming regulation. The Internet should be seen as a space that works best autonomously and without any intervention.

I would like to reiterate my invitation to participating States to co-operate with my Office in the process of drafting and discussing such legislation.

For recommendations on the issue, see our Media Freedom Internet Cookbook at [http://www.osce.org/fom/item\\_11\\_13570.html](http://www.osce.org/fom/item_11_13570.html).

### **UN Internet Governance Forum (IGF)**

I thank the governments of **Germany** and **Ireland** who made the participation of my Office in the activities of IGF possible through their extra-budgetary contributions.

On 12-15 November 2007, my Office participated in the 2<sup>nd</sup> IGF in Rio de Janeiro. The main activities included:

- A joint workshop on media freedom on the Internet was conducted together with the Council of Europe and UNESCO, entitled 'Freedom of Expression as a Security Issue'. All participant experts agreed that freedom of expression and security on the Internet are not contradicting but complementing values in the information society.
- My Office also chaired a meeting of the 'Dynamic Coalition on Freedom of Expression and Freedom of the Media on the Internet' (FOEonline), an informal working group within the IGF process, attended by i.a. Amnesty International, the Open Net Initiative, the World Press Freedom Committee and Google.



### ***Training***

**On 12 December 2007**, we continued our series of training courses for journalists and press officers in Dushanbe, Tajikistan. The main goal of the seminar was to increase public access to official information, as well as to foster effective interaction between state administration bodies and journalists. The event was attended by 30 participants, and was organized jointly by my Office and the Presidential Administration, with support from the OSCE Centre in Dushanbe.

### ***Participation of the Office of RFOM in other OSCE and external events***

On 14-15 February 2008, my Office participated at the annual meeting of the Network Media Ethics in **Munich**.

On 19 December 2007, my Office contributed to a roundtable discussion on the 'Challenges of the implementation of the Law on Free Access to Public Information and the need to improve the Law' in **Skopje**.

On 18 and 19 December 2007, an Office member attended the OSCE 2007 Mediterranean Seminar and NGO roundtable on Combating intolerance and discrimination and promoting mutual respect and understanding in **Tel Aviv**, Israel.

On 3 and 4 December 2007, my Office delegated an expert to the 'Regional Conference on media self-regulation for South-East Europe, organized in **Skopje** by the OSCE Mission in Kosovo.

On 29-30 November 2007, the Representative attended the OSCE Ministerial Council in **Madrid**.

On 28-29 November 2007, my Office was invited on expert level to the Frankfurt Days of Media Law in **Frankfurt/Oder**.

On 22-23 November 2007, an Office member was invited to participate at the annual 'Mediendisput' in **Mainz**.

On 17 November 2007, the Representative participated as a panellist at the Liberal Thinkers' Conference on 'The Future of Freedom' organized by the Friedrich-Naumann-Foundation in **Hamburg**.

On 14 November 2007, an Office member participated at the international conference on 'Access to Information, Government and Media relations' in **Baku**.

### ***Project activities confirmed for the next period***

- On 17 March, I will chair the High Level Policy Meeting on Media Legislation Reform in **Kyiv**. The meeting is organised jointly by the OSCE, Council of Europe, and EU Commission.
- The next confirmed training seminars are planned in **Georgia** for 18 – 19 March and in **Kyrgyzstan** on 26 -27 March. These seminars are made possible by a donation from Switzerland.

- On 17-19 May in **Paris** I will address the Eurasia Regional Forum for Media Development. The event is organised by Internews, Europe.
- 19-20 May 2008, I am invited to participate at the Black Sea seminar on freedom of expression in **Chisinau** as a keynote speaker. The event is organized by the European Commission and the Moldovan Ministry of Foreign Affairs.
- Together with the **Open Net Initiative (Universities of Toronto, Harvard, Cambridge and Oxford)**, my Office will continue to work on a survey on Internet filtering in the OSCE region. First results and a publication are expected for summer 2008.

As every year, I use the opportunity of my first addressing of the PC to announce our **extra-budgetary fundraising efforts for 2008**. Especially the regional media conferences in the South Caucasus and in Central Asia, but also other projects, can only be carried out if we can continue to count on the participating States. Let me extend a warm thank you to the donors who contributed in 2007.