



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

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Regular Report to the Permanent Council

Introduction

As I maintained in earlier reports, **violence against the media**, if met with practical impunity, becomes a foremost obstacle for uninhibited journalism. This danger was highlighted once again on 19 January 2009, when *Novaya Gazeta* stringer Anastasia Baburova died shortly after she was shot in downtown Moscow along with human rights lawyer Stanislav Markelov. *Novaya Gazeta* has had four of its journalists murdered during the last eight years.

This is why it was especially encouraging to learn that on 29 January President Medvedev met with Mikhail Gorbachev, one of the owners of *Novaya Gazeta*, and Dmitry Muratov, the newspaper's Editor-in-Chief. This meeting is a first symbolic step by Russia's Head of State in acknowledging the problem of violence against journalists.

The highest level involvement of the Russian Government is warranted by the fact that, thus far, no high-profile case of a murdered journalist, including Politkovskaya's, resulted in charges being brought against the masterminds. In most cases, not even the perpetrators could be found or punished. Without a major overhaul of the treatment by the law enforcement of violence against journalists, true freedom of the press will remain jeopardized by fear of covering issues such as corruption and human rights.

In a number of participating States there is an ongoing discussion about introducing new legislation to **regulate the Internet**.

As mandated, I would like to warn – even before these ideas become codified – that in order to comply with the relevant OSCE commitments on freedom of expression and the free flow of information, Internet regulation should be non-restrictive and limited to areas where it is absolutely unavoidable. This has to take into account the fact that, unlike classic media, the immense and growing new media forms hosted on the Internet are practically not monitorable. This means that all prescriptions for Internet content will be applicable only in an arbitrary way, whereas government-imposed blocking of content will prove to be ineffective and – again – incompatible with OSCE principles.

It is acceptable, of course, as has happened with various Internet Service Providers (ISPs), to voluntarily employ blocking systems to prevent 'bad' content. But a warning is due that the word 'voluntarily' can only be taken seriously in countries where pluralism of ISPs exists.

For recommendations on this issue, see our Media Freedom Internet Cookbook at http://www.osce.org/fom/item_11_13570.html.

Issues Raised with the Participating States

Armenia

On 27 November 2008, in my last report to the OSCE Permanent Council, I informed the Council of multiple incidents of violence against independent journalists in Armenia. I have repeatedly brought up this issue with Armenia's authorities. The last three cases are those of Edik Bagdasaryan, the President of Investigative Journalists' Association and Chief Editor of *Hetq Online*, Lusine Barseghyan from the opposition newspaper *Haykakan Zhamanak*, and Hrach Melkumyan, the acting head of the Yerevan bureau of *Radio Free Europe/Radio Liberty*.

I hope to receive information about the investigations into these cases of violence. While the purpose of committing violence against journalists is censorship, self-censorship endured by the entire journalistic community is always the inevitable outcome.

Please also see the section on legal reviews below.

Azerbaijan

On 30 December 2008, I urged the authorities in Baku to reconsider excluding foreign broadcasters from the use of FM radio frequencies. My request was prompted by Azerbaijan's decision of 30 December not to renew FM licenses for broadcasters including the *BBC*, *Radio Liberty* and *Voice of America* as of 1 January 2009. I stressed that this move would represent a significant step backwards for the free flow of information. The suggested alternatives (the Internet, satellite radio, or shortwave transmissions) are no replacement for FM, which is today's main radio format. As a result, the varied, public-service quality information provided by the affected foreign radio stations may practically disappear.

Three months after the authorities' decision, the foreign radio broadcasters are still silent. My Office continues to monitor the developments.

On 16 March, I wrote to Minister of Foreign Affairs Elmar Mammadyarov regarding two pieces of legislation – the 6 March amendment to the Law “On the Mass Media” and the planned amendments to the Law “On Television and Radio Broadcasting”.

The mass media law was amended without prior consultations with the journalistic community or non-governmental organizations. The revised Article 19 of the law allows government bodies to request the suspension of media outlets for a period of up to two months based on three additional grounds: if a foreigner or an individual without a university education is appointed as editor; if a media outlet fails to send free obligatory copies to 'relevant government bodies'; or if a media outlet was found guilty of 'abusing media freedom or journalists' rights' on two occasions within one year.

These changes allow interference by government with the work of media in ways that are not compatible with OSCE commitments on media freedom. Additionally, suspending media outlets for two months could easily result in their bankruptcy.

The planned amendments to the Law “On Television and Radio Broadcasting” would limit the rights of foreign television and radio stations to broadcast via satellite, while terrestrial broadcasters would be limited in their ability to re-broadcast their colleagues’ programmes.

These changes would further restrict access to Azeri services of foreign media, even those broadcast via satellite and cable – the carriers proposed by the authorities as alternatives when they banned *BBC*, *Radio Liberty* and *Voice of America* from FM airwaves on 30 December last year (see above).

I look forward to receiving an official copy of these draft amendments before their adoption, and I offer the expertise of my Office in order to assist the authorities in bringing the draft in line with international standards.

Belarus

On 19 December 2008, I wrote to Minister of Information Vladimir Rusakevich to thank the authorities for the co-operation in a round-table seminar on the challenges facing the Internet in the 21st century, jointly organized by the Ministry of Information and my Office. I also listed the major issues related to strengthening media freedom in the country, and suggested further co-operation in these fields between the Government of Belarus and my Office.

Among the topics I mentioned were: the removal of administrative barriers hindering the work of independent media; the repeal of all Criminal Code articles on defamation, and the handling of libel and insult cases exclusively in civil procedures; the possibility for independent broadcasters to enter the market; and the transformation of state broadcasters into genuine public-service broadcasters.

I welcomed the assurances of the authorities that the Internet in Belarus will remain free. My Office stands ready to assist the Government of Belarus in reforming its current legislation in view of OSCE’s media freedom commitments.

On 5 March, I wrote to the Ministry of Foreign Affairs regarding a new case when the Law “On countering extremism” was applied against the Belarusian media.

The letter was prompted by a closed-doors trial and confiscation order against an issue of the magazine *Arche*, because of four excerpts that the authorities had found to be of extremist nature. I attached to my letter the relevant excerpts, which in fact were comments about Belarusian society and politics, at times critical of the authorities. Neither the quotes nor their context call for violence, terrorism, or any other unlawful action.

I hope that the confiscation order against *Arche* will be successfully reversed on appeal in a court of higher instance. I encouraged the Government to initiate a revision of the vague and restrictive provisions on extremism, which in fact may be used to silence legitimate social debate.

I look forward to receiving updates from the authorities on the lawsuit.

Bosnia and Herzegovina

On 14 January, I wrote to the Prime Minister of the Federation of Bosnia and Herzegovina Nedžad Branković and to the Chairmanship of the House of Peoples of the Federation to voice my concern about recent attempts by the Federation Parliament to weaken the role of the Communications Regulatory Agency (CRA) in regulating public-service broadcasting.

I stressed that the December amendments to the “Law on Communications in Bosnia and Herzegovina” threaten to undermine the independence of CRA. I also raised the issue of the modifications of the “Law on the Public Broadcasting Service of Federation BiH” of 30 December, which shift the responsibility of selecting members of the Governing Board of Federation RTV from the CRA to the Federation Parliament, bypassing the CRA during the appointment procedure.

Both of these initiatives politicize the governance of broadcasting, the impartiality of which is one of the essential prerequisites in European democracies. In order for the CRA to function as a credible remedial instrument, its political independence must be guaranteed. This is most important in a country like Bosnia and Herzegovina where public-service broadcasting assumes the vital function of uniting divisions in a single national structure.

On 28 January, I received a reply from the Prime Minister, who stressed his efforts to prevent the adoption of the above amendments.

On 6 March, I received a joint letter from Ambassador Raffi Gregorian, the then Acting High Representative, and Ambassador Gary Robbins, Head of the OSCE Mission to Bosnia and Herzegovina, informing me of their concerns regarding the deteriorating media situation, particularly the stalling implementation of broadcasting laws and the increase of attacks against journalists.

In my reply of **20 March**, which I also made available to the newly appointed EU Special Representative, Ambassador Valentin Inzko, I shared my Office’s recommendations as to how the situation could be improved. I also stressed the need for the European Union to monitor more closely the media freedom dimension when assessing the country’s advancement towards European standards.

Czech Republic

On 11 February, I wrote to President Václav Klaus asking him to veto the new Criminal Code and to request Parliament to review a new provision that may diminish media freedom.

In particular, the amendment makes it possible to sentence journalists to up to five years in prison for the publication of conversations wiretapped by police. I stressed that the fight against wrongdoing and corruption would require a waiver that allows lifting this sanction in cases where unauthorized disclosure turns out to be in the public interest. The new rules do not provide for such a defence.

I also drew the President’s attention to the fact that the amendment keeps in place identical liabilities for the officials who leaked secrets that they were supposed to guard and for non-

officials – including journalists – who only passed on such information. I asked him to help restore this important distinction, which is typical in modern democracies.

Unfortunately, the Code also retained defamation as a criminal offence. I emphasized that such offences should be dealt with solely in civil courts.

On 3 March, I received the reply of the Chancellery of the President informing me that the President did sign the law.

On 1 April, a group of Czech Senators, headed by former Prime Minister Pithart, decided to file a complaint with the Constitutional Court regarding the abovementioned provision on wiretapping. I hope that this will provide an opportunity for the authorities to review the issue not only from a point of view of politicians distressed by leaks, but also from the angle of society's right to the free flow of information. Sanctions based on laws without free speech guarantees are unlikely to pass the scrutiny of the European Court of Human Rights.

France

I welcome the proposal voiced by President Nicolas Sarkozy **on 7 January** to decriminalize defamation and transfer its handling to civil courts. I look forward to a concrete legislative proposal revising the Criminal Code accordingly. This would not only reinforce freedom of expression principles in France, but could also serve as an applicable practice for many OSCE participating States.

I also recall that the draft law protecting journalists' confidential sources awaits the second reading at the French National Assembly, and I hope that this legislation, vital for freedom of investigative journalism, will soon be adopted.

On 16 December 2008, I wrote to President Sarkozy greeting several pioneering elements of the ongoing media reform in France.

The “Law on audiovisual communication and public-service television”, adopted by the Senate on 4 February, establishes a new funding method for public-service broadcasters. It phases out advertising, but obliges commercial broadcasters to contribute a fraction of their advertising income to the public-service branch.

Such a reform enables public-service broadcasting to return to its true vocation, namely offering viewers advertisement-free, high quality cultural and political programming. My Office recommends this type of funding of public-service broadcasters – outsourcing advertising revenues to commercial broadcasters – as an inevitable solution for new democracies where the public service can not compete with the commercial broadcasting sector.

At the same time, I expressed concern about Article 8 of this law, giving the President the power to nominate the head of the public-service broadcaster. Although the candidate will have to be approved by the regulatory authority and by the relevant Parliamentary Commissions, the necessary independence of this function may be put into question by virtue of nomination by the highest political office.

Greece

On 18 February, I was pleased to receive information on the swift public condemnation by Interior Minister Prokopis Pavlopoulos of the armed assault committed on 17 February against private television station *Alter* as “an attack against the freedom of speech and democracy”.

The station was attacked by four armed men. They fired shots and threw an explosive device outside the premises of the media outlet’s central offices in Athens. No injuries ensued. On 21 February, the attackers identified themselves as “The Sect of Revolutionaries”, and issued a proclamation threatening journalists with future attacks.

My Office is in contact with the authorities concerning these developments, and I look forward to receiving updates on the ongoing investigation.

Hungary

My Office is monitoring the ongoing effort by an all-party expert committee to reform the country’s media law. On the one hand, the concept proposes the welcome de-commercialization of public-service channels and the automatization of their financing. However, it subordinates the broadcasting media to bodies appointed solely by parliamentary parties without any involvement by other branches of government or civil society. If codified in this spirit, the law would clearly contradict commitments regarding independence of the media.

Italy

On 27 November 2008, I wrote to Minister of Justice Angelino Alfano to express concern about a series of attacks targeting journalists in Italy, conducted with the clear intention of intimidating media professionals from reporting. The incidents included telephone threats against *RAI 3* television station on 3 November, vandalism of the vehicles of *RAI 3* journalist Santo Della Volpe (on 9 November) and of the publisher of *l’Unita*, Concita De Gregorio (on 20 November), as well as forcing a television crew from *RAI 1* to leave a reporting site while covering news about racist attacks against immigrants on 23 November.

I look forward to receiving updates from the relevant authorities on the cases.

Kazakhstan

On 12 January, I wrote to Minister of Foreign Affairs Marat Tazhin to urge the Kazakh authorities to release Ramazan Yesergepov, the editor of the weekly *Alma-Ata Info*. The journalist was detained on 6 January for disclosing internal documents of Kazakhstan’s National Security Committee in articles critical of this authority.

I reminded the authorities that Yesergepov’s case is the proper occasion to reform the rules on classification, de-criminalize breach of secrecy committed by non-officials, and grant protection of journalistic sources.

On 4 February, I received a letter from Ambassador Kairat Abdrakhmanov, forwarding the comments of Kazakhstan's National Security Committee on the case, which stress observance by the agency of the laws presently in vigour.

Unfortunately, Yesergepov is still under arrest, and, since **10 February** the publishing of his newspaper *Alma-Ata Info* has been suspended.

On 18 February, I shared with the authorities the information that my Office received on attacks against several journalists in Kazakhstan during the last two months. On 5 February 2009, Bakhytzhhan Nurpeisov of the weekly *Obshestvennaya Pozitsiya* was attacked on his way home. On 18 January 2009, Yermek Boltai, a reporter and editor for *Radio Azattyq*, a Kazakh service of *Radio Free Europe/Radio Liberty*, was beaten by five men. Only several weeks earlier, on 29 December 2008, Artyom Miusov, a reporter from the opposition weekly *Taszhargan*, was stabbed several times and taken to hospital in critical condition. I asked the authorities to swiftly investigate the cases.

On 22 January, in a letter to Minister of Foreign Affairs Marat Tazhin and Minister of Culture and Information Mukhtar Kul Mukhammed, I welcomed the adoption of a number of amendments to Kazakhstan's media law.

The amendments ease the administrative burdens on the media: they simplify the registration process for the media, provide the media with the possibility to appeal to courts against denials of governmental information, as well as with the possibility to use voice recorders and cameras to collect, but not to disseminate, information.

My Office stands ready to assist the Government to carry out further necessary reforms, such as de-monopolization of the media market and de-criminalization of libel and insult.

On 5 March, I expressed concern about a harsh court decision in a civil defamation lawsuit against the newspaper *Taszhargan*, brought by a Member of Parliament because of an article critical of his role in agricultural policies.

In January, a court ordered the newspaper and its journalist to pay a 3 million Tenge (16 000 Euros) compensation to the head of the Agricultural Committee for 'moral damages', and to publish a retraction. In a dramatic turn in February, after the appeal by *Taszhargan*, the court ruled for a ten-fold increase of the fine – a compensation of 160 000 Euros.

Although it is welcome that the plaintiff chose to file a civil suit rather than resort to a criminal procedure, the high amount of damages may bankrupt the newspaper, harm pluralism in the Kazakh media, and induce self-censorship.

I stressed that the OSCE commitments, just as the Council of Europe's minimal legal standards, require proportionality when imposing fines, and, most importantly, the protection of legitimate public-interest journalism. In cases when inaccuracies are published in good faith, the criticized public figures have to make peace with the moral satisfaction provided by a public retraction of the error.

I hope that this case will be thoroughly considered by the Supreme Court and that the final decision will meet international standards.

I was encouraged by the good example an Almaty court set in a recent civil libel case against another journalist of *Alma-Ata Info*. **On 19 March**, the court decreased the amount of damages demanded by a businessman from 522 000 to 800 Euros.

Kyrgyzstan

On 11 December 2008, I wrote to the then Minister of Foreign Affairs Ednan Karabayev regarding the suspension of broadcasts in Kyrgyzstan of *Radio Free Europe/Radio Liberty (RFE/RL)* and the Kyrgyz-language service of the *BBC*. I asked the authorities to renew the contracts of both media outlets.

I pointed out that both broadcasters are reputable public-service sources of information for the Kyrgyz society. Their suspension represents a loss of pluralism – a major OSCE commitment in the media field.

I still hope that the authorities will allow the broadcasters to continue their operation and thus ensure the citizens' access to their programmes.

On 5 March, I raised with Minister of Foreign Affairs Kadyrbek Sarbaev the violent attack against Syrgak Abdyldayev, a political reporter and a commentator with the independent newspaper *Reporter-Bishkek*. On 3 March, the journalist was stabbed and beaten by four unidentified men near the office of the newspaper, and was taken to hospital to receive intensive care. The journalist remains in critical condition.

On 18 March, I received a response from Minister Sarbaev with his assurance that justice will be restored and those responsible for the attack against the journalist will be prosecuted.

I also hope to get an update regarding the murder of journalist Alisher Saipov, who was fatally shot in Osh in October 2007.

Moldova

On 15 December 2008, I wrote to Minister of Foreign Affairs Andrei Stratan raising the fate of *Pro TV Chisinau*, one of the most popular independent television stations in Moldova. I urged the authorities to renew the license of the media outlet in order to ensure media pluralism, particularly essential before the parliamentary elections which will be held on 5 April 2009.

The reason stated by the Audiovisual Coordination Council (CCA) for the possible non-extension of the license was that the station had been warned four times about violating the broadcasting law but failed to report on how those violations were rectified. I stressed in my letter that it is unacceptable that minor violations are used as a pretext to close a popular media outlet. The many important activities of a regulatory body should be centered on the core task of maintaining pluralism, and should not result in limiting it.

CCA has meanwhile declared that it will deal with licensing issues only after the elections. I am awaiting the reply of the authorities, and hope that the Government will demonstrate its commitment to broadcasting pluralism.

On 20 February, the President of Moldova promulgated the Law on State Secrets adopted by Parliament on 27 November 2008. I was disappointed that the authorities of Moldova did not take into account the recommendations of my Office. The law expands the number of unnecessary obstacles for the media to access governmental information. Our recommendations regarding the Law on State Secrets are available at http://www.osce.org/documents/rfm/2008/11/35108_en.pdf.

Montenegro

On 16 December 2008, the Parliament in Podgorica adopted the Law on Public Service Broadcasting. I am glad to note that the law followed the recommendation – made upon my assessment visit to Montenegro last year – to introduce automated, mandatory funding of the nation’s public-service broadcaster *RTCG*. Without such a guarantee regarding the government-funded part of their revenues, public-service broadcasters would be obliged to negotiate with politicians the annual allocations, and could as a result lose their editorial independence.

Romania

On 25 March, I welcomed the news that Romania decided to decriminalize libel and insult, and to transfer these provisions from the Criminal to the Civil Code. Both draft codes are currently under parliamentary debate.

However, the draft Civil Code is reported to contain provisions on protection of honour and reputation that may contradict OSCE commitments regarding the protection of legitimately critical speech.

Therefore, my Office commissioned a legal review on the relevant parts of the draft Civil Code. I hope that the recommendations of this analysis will assist the authorities in carrying out the reform in a way that duly protects the media’s right to scrutinize public figures, and the citizens’ right to access information of public interest.

Russian Federation

On 23 January, I asked President Dmitry Medvedev and Prime Minister Vladimir Putin to undertake a resolute and vocal effort to protect journalists’ physical security. In my letter I listed the most recent cases of violence. Among the new murder victims were *Novaya Gazeta* stringer Anastasia Baburova, who was killed in Moscow along with human rights lawyer Stanislav Markelov; Shafik Amrakhov, an independent editor and journalist shot in Murmansk; and Vladislav Zakharchuk, an employee of *Arsenievskie Vesti*, the office of which burned down in Primorskiy Kray.

On 19 February, in the context of the acquittal of those accused in the murder of Anna Politkovskaya, I reiterated the need for concerted, centralized government action to resolve the chronic safety crisis endured by journalists. Most importantly, the failure of law enforcement to protect journalists from intimidation must be addressed.

On 26 February, a spokesperson of the Russian Ministry of Foreign Affairs suggested that my statement “bears an obviously tendentious, if not to say a provocative character.” I disagree with this assessment. My statement was in line with my mandate “to advocate and promote full compliance with OSCE principles and commitments regarding freedom of expression and free media”.

On 24 March, I received information from Russian law enforcement authorities concerning the cases of violence against journalists that I had raised. The authorities opened criminal cases for “murder”, “death by negligence”, “infliction of bodily harm” and “obstruction of journalists’ professional activities”. One investigation and two inspections did not result in criminal cases. Administrative responsibility and fines for “violating a lawful order of a police officer” were imposed on five journalists who were detained at an opposition rally.

On 10 March, I asked for more information about the investigation into the 5 March attack by unknown assailants against Vadim Rogozhin, the head of the Saratov-based media-holding *Vzgliad*. Rogozhin, who remains in critical condition, had authored numerous articles about abuses of power by local authorities.

As concerns legislative developments, **on 18 December 2008** I received a response to my letter of **21 October 2008** addressed to Chairman of the State Duma Boris Gryzlov and Prosecutor General Yuri Chayka.

My letter had criticized the Prosecutor’s proposal to block entire websites on the basis of vague and arbitrary 'extremism' criteria. Another concern expressed was about the intention to oblige media outlets to refute 'false information disseminated in the media' upon request by state bodies. The refutation would be mandatory and the failure to refute would be sanctioned.

In his reply, the Prosecutor General stated that blocking websites would only oblige Internet providers not to disseminate information which incites social, racial, national or religious hatred and hostility. Concerning the issue of mandatory refutations, Mr. Chayka states, “the objectivity of Mr. Haraszti’s arguments on the limitation of freedom of expression by the right of state bodies to demand refutation of false information in the media is doubtful”.

I remain hopeful that the authorities will carry out a more thorough review of the initiatives in consultation with media freedom experts. My Office stands ready to co-operate by providing relevant expertise.

Slovakia

On 6 March, I informed the authorities that my Office is monitoring recent legislative amendments to the Criminal Code, which introduce sanctions for 'extremism' in the media, as well as amendments to the law on the state language of the Slovak Republic, concerning rules for broadcasters.

Regarding the amendments to the Criminal Code, I find the concept of 'extremism' undefined and overbroad. This could result in arbitrary application and restrict otherwise legitimate reporting and debating.

The draft amendments to the “Act on State Language of the Slovak Republic” keep in vigour the obligation of privately-owned radio stations to duplicate in the Slovak language their minority or foreign-language programs. This rule is technically and financially prohibitive and therefore restricts broadcasting pluralism and the free flow of information.

I offered my Office’s good services to provide expert reviews and recommendations on both draft laws.

On 20 March, the Permanent Representative of the Slovak Republic to the International Organizations in Vienna Ambassador Juraj Macháč provided me with his Government’s reply.

The document assures that “the amended Slovak Criminal Code shall not establish such a penalization that would lack legitimate grounds”, and that “neither arbitrariness, nor limitation of otherwise legitimate reporting and debating” will be possible.

Regarding the language law’s broadcast rule for minority or foreign languages, the reply states that Slovakia considers “the rules of using the state language an internal matter of each state.” It also states that the authorities are “convinced that the proposed text pursues a legitimate aim in a democratic society, and the limitations are adequate to this aim.”

My Office continues to monitor these legal initiatives which are currently in Parliament.

Slovenia

On 7 October 2008, the then Prime Minister Janez Janša had filed criminal defamation charges against one Finnish and several Slovenian journalists. On 24 November, the Mayor of Celje, Bojan Srot, brought criminal charges against a Slovenian journalist. In both cases, the journalists reported on alleged involvement of these officials in wrongdoings.

I welcome the decisions of the prosecution not to proceed with criminal charges against the Slovenian journalists in both cases. The decision regarding the case of the Mayor of Celje was taken on **11 December 2008**, and that of the Prime Minister’s on **20 March**. I hope that the claim against the Finnish journalist will be dismissed accordingly.

Spain

In January, I was glad to observe that the recent increase in terror attacks against media outlets in the Basque country was met by efforts by the Spanish authorities to investigate these cases and bring to justice the perpetrators.

The latest incidents included bombings of television transmission facilities and television headquarters in Bilbao and Hernani. No injuries were reported, but the explosions caused considerable damage.

On 20 March, I wrote to the authorities to express my concern following violent police attacks against a group of photojournalists covering a student demonstration in Barcelona.

The incident is particularly regretful because the injured journalists were clearly identified with press armbands.

I drew the attention to my Office's Special Report on "Handling of media during political demonstrations" (www.osce.org/documents/rfm/2007/06/25176_en.pdf), and asked for additional information on the incident.

Tajikistan

On 20 March, I wrote to Minister of Foreign Affairs of Tajikistan, Hamrohon Zarifi, about the suspension of the programmes of a local independent radio station, allegedly due to an unsettled debt for utilities. I asked the authorities to intervene in a helpful way, as, under OSCE media freedom commitments, the participating States are to facilitate the freer and wider exchange of information, as well as to promote pluralism in broadcasting. I also suggested that if the channel is allowed to broadcast, it will have an opportunity to pay off its debt.

Turkey

My Office continues to monitor the ongoing prosecutions under Article 301 of the Turkish Penal Code, which renders it illegal to insult the Turkish nation or Turkish government institutions. Last year's amendments to Article 301 make it obligatory to obtain the approval of the Minister of Justice when filing a case. Although the Ministry has approved only 8 out of the 144 cases sent for review since the amendment, the very existence of Article 301 preserves the chilling effect on free expression.

I also follow the proceedings in the case of the so-called 'apology campaign'. This Internet-based campaign, which started in December 2008, has resulted in nearly 30,000 supporters signing a text apologizing to Armenians for the events of 1915. **On 26 January**, the Ankara prosecution dismissed the proceedings, arguing that "even opposite opinions are protected under the concept of freedom of expression in democratic societies". Nevertheless, **on 3 March**, I was informed that an Ankara court overruled the decision and opened the way for the prosecution of the signatories under Article 301. I look forward to learning about the decision of the Minister of Justice in this case.

On 5 February, I learned that an Istanbul court decided to continue the trial of journalist Gokcer Tahincioglu from the daily *Milliyet* and journalist Kemal Goktas from the newspaper *Vatan*. They are facing up to three years in prison for allegedly acquiring classified information and for allegedly endangering public officials working in counter-terrorism. My Office monitors the developments.

My Office also follows the potential media pluralism implications that could result from the unusually high fine of Euros 380 million, imposed on 17 February, on Dogan Media Group, known for its publications critical of the government.

Turkmenistan

Concerning my recent visit to Turkmenistan, see the section below on *Visits and participation in events*.

Uzbekistan

On 4 March, I wrote to the authorities about the cases of two recently arrested journalists.

In January, independent journalist Kushodbek Usmonov was arrested on charges of defamation and hooliganism, and in February independent journalist Dilmurod Saiid was detained in Tashkent for alleged extortion. I expressed my concern that the charges of 'hooliganism' and 'extortion', neither of them related to journalistic activities, could be applied in order to prevent Mr. Usmonov and Mr. Saiid from continuing their journalistic profession.

On 24 March, I received a response from the Permanent Mission of the Republic of Uzbekistan to the OSCE providing information on the cases of Saiid and Usmonov. The letter states that Saiid is under arrest based on Article 165 of the Criminal Code: “Extortion committed in especially large amount”. The case against Usmonov is still under investigation. He is accused of libeling an inspector of the district department of the Ministry of Interior. I hope for a fair trial of both journalists and I will continue monitoring developments in both cases.

I continue monitoring the fate of *RFE/RL* correspondent Salidzhon Abdurakhmanov, arrested on 7 June 2008 and sentenced to ten years in prison on charges of drug possession. As previously reported, I am convinced that these charges are unfounded. Unfortunately, **on 25 March**, the Supreme Court of Karakalpakstan upheld Abdurakhmanov’s sentence. I remain hopeful that the authorities will find a way to allow Abdurakhmanov to return to his wife and six children.

Concerning my upcoming visit to Uzbekistan, see the section below on *Visits and participation in events*.

Projects and activities since the last report

Joint Declaration by global media freedom rapporteurs

As in previous years, I met with my international counterparts – the freedom of expression rapporteurs of the United Nations, the Organization of American States and the African Commission on Human and Peoples’ Rights. This year’s meeting was held in Athens, Greece on **9 December 2008**, facilitated by the London-based *Article 19, Global Campaign for Free Expression*.

Following the meeting, we adopted our annual Joint Declaration on **12 December 2008**.

This document coincides with the 60th anniversary of the Universal Declaration of Human Rights. It concerns the dangers to freedom of speech inherent in national legislation regulating the fight against 'defamation of religions' or 'blasphemy' laws, as well as against 'extremism' or other terrorism-related speech offences.

The signatories agreed that the concept of 'defamation of religions' is not in accord with international standards accepted by pluralistic and free societies. We emphasized that international organizations should abstain from adopting statements supporting criminalization of 'defamation of religions'.

We also advised that the definition of terrorism should be restricted to violent crimes which inflict terror on the public, and that vague notions such as 'providing communications support' or 'promoting' extremism or terrorism should not be criminalized unless they constitute incitement.

We underlined that the particular role of the media should be respected in anti-extremism and anti-terrorism legislation.

While the vast majority of the OSCE participating States have adopted anti-terrorism laws, some of them extend to regulation of public speech. Six participating States – Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia and Tajikistan – have adopted anti-extremism laws since 2002.

The full text of the Declaration is available at:
www.osce.org/documents/rfm/2008/12/35705_en.pdf.

Since the Declaration was issued, **on 26 March**, the UN Human Rights Council has adopted the resolution on “combating defamation of religions”, promoting the criminalization of the defamation of religions by UN Member States. Two of the 13 OSCE participating States which presently serve as members of the Human Rights Council have voted in favour of the resolution. I have to stress that the resolution is not in line with OSCE’s principles on freedom of expression and the free flow of information. Moreover, it will not improve the fight against intolerance and discrimination, as adhering to it could justify the denial of the right to legitimate critical interactions in society, among religious communities, and within them.

Legal reviews

Armenia

On 31 March, I forwarded to the National Assembly of Armenia the analysis of amendments to legislation regulating the broadcast media. While I acknowledge that the draft introduces some positive innovations into broadcasting regulation in Armenia, I advise against the adoption of this legislative package, due to serious flaws which concern the selection and appointment of members of the Council of Public Television and Radio and the National Commission on Television and Radio, as well as the proposed scheme of financing the public service broadcaster and the regulatory body. I reiterate my recommendation to take into account the recommendations of my Office and review the current versions of the laws with the participation of all concerned stakeholders before their final adoption.

Kazakhstan

My Office commissioned a legal review of the draft law of the Republic of Kazakhstan “On Amendments to Some Legislative Acts of the Republic of Kazakhstan concerning Information and Communication Networks” submitted to the Parliament and relevant authorities on 6 February 2009. The draft law is currently examined in the Mazhilis – the lower house of Parliament.

The following concrete recommendations were made in order to bring the draft in line with international standards, practice and OSCE commitments:

- To set clear criteria concerning the types of Internet resources which can or can not constitute “media”. It is recommended to preserve the right of an Internet resource to recognize itself as a media outlet;
- To abolish forms of liability for legal violations that could result in suspension or closure of media outlets;
- To abolish norms prohibiting access to foreign Internet resources from the territory of Kazakhstan;
- To restore the right of citizens to unrestricted access to foreign media.

My Office stands ready to continue assisting Kazakhstan and other participating States with their media legislation reforms.

Developments regarding criminal defamation laws

During the last year my Office has observed the following developments in reforming criminal defamation laws.

In **Ireland**, the Minister of Justice decided to decriminalize defamation in early 2008; this initiative is still pending in Parliament. I hope that Irish legislators will fully decriminalize defamation in the nearest future.

In his 7 January 2009 speech at the Court of Cassation in Paris, the President of **France** stated that defamation should be decriminalized.

I look forward to receiving updates about the current parliamentary debates in **Romania**, on the proposed Criminal Code reform. It would decriminalize defamation and transfer its handling exclusively into the civil law domain.

I am very hopeful that decriminalization of defamation in France and Ireland will serve as an inspiring example to other OSCE participating States.

During a recent overhaul of their Criminal Codes, the **Czech Republic** and **Slovenia** failed to decriminalize defamation.

Self-Regulation

- The *Media Self-Regulation Guidebook* published by my Office in 2008 proved remarkably successful, and has since been translated into numerous languages. It is now available in Albanian, English, French, Hungarian, Russian and Turkish. Additionally, my Office supported the translation of the guidebook for Montenegrin journalists and officials and is currently assisting to provide translations for media professionals and respective authorities in Tajikistan and Azerbaijan. All versions are available online at: <http://www.osce.org/fom/publications.html>.
- On 19 June 2009, following a proposal by the OSCE Mediterranean Partner Egypt at the Helsinki Ministerial Council, my Office will organize a media self-regulation seminar in Vienna, which for the first time will address media professionals from both the OSCE Mediterranean Partner States and the OSCE participating States. With the assistance of international self-regulation experts, the event will raise awareness of the role and functioning of self-regulatory mechanisms with a special focus on enhancing mutual trust and understanding. The seminar will be conducted in the framework of the Partnership Fund.

Training activities

- **Press secretaries and journalists**

My Office has continued its training programme for press officers of public bodies and journalists. A training seminar was held in Belgrade on 25 - 26 March 2008 for participants from eastern and western regions of **Serbia**.

A similar seminar is planned to be held in Karaganda, **Kazakhstan**, on 28 - 29 April 2009.

More than 500 journalists and staff of state press services benefited from over 20 seminars organized by my Office since 2005. These training events are designed to further access to government-held information by societies via enhancing media coverage of government affairs and improving working relations between the two groups.

- **Media self-regulation**

In the field of awareness-raising and training activities on media self-regulation, my Office participated from 23 to 28 March 2009 in four local training seminars organized by the OSCE Presence in **Albania**. The training seminars were attended by around 100 journalists from Tirana, Shkodra, Vlora and Gjirokastra.

Digitalization study

At the request of many non-governmental media organizations, my Office commissioned a step-by-step guide that can assist the participating States when dealing with the challenges of

the digital switchover and its media freedom implications. The study, to be finalized in May, is being prepared by two leading international experts.

It will detail what a digitalization plan should contain, who should be involved in the process, what legal provisions are needed to allow and encourage digitalization, and how to manage the process. It will also analyze how a country's authorities, together with other sectors of society, can manage the digitalization process in order to avoid negative effects and promote positive aspects of digitalization, such as increased media diversity and plurality. Furthermore, it will address the relevant political issues related to the switchover, including the obligations of democratic states such as market regulation, entry into the market of digital television and the pros and cons of economic support to broadcasters and consumers.

Visits and participation in events

On 1 December, my Office participated in the roundtable meeting “Journalists’ Ethics: the Way towards Independent and Responsible Media” in **Karaganda, Kazakhstan**.

On 2 December, on the occasion of receiving the Chydenius medal for global promotion of freedom of information, I addressed the Swedish-Finnish Freedom of Information Day roundtable on “Access to Information in the OSCE Region” in **Helsinki, Finland**.

On 4 - 5 December, I participated in the OSCE Ministerial Council meeting in **Helsinki, Finland**.

On 7 - 10 December, I participated at two events in **Athens, Greece**:

- I addressed the 2nd Global Forum for Media Development on the topic of “Building enabling environments – the role of international organizations”.
- I took part in the annual meeting of the global rapporteurs on freedom of expression together with my counterparts of the United Nations, the Organization of American States and the African Union. The meeting was facilitated by the London-based media NGO *Article 19* (see above concerning the Joint Declaration).

On 12 - 14 December 2008, I gave an address on best practices in the OSCE area at a conference on access to information organized by Central European University in **Budapest, Hungary**.

On 15 - 16 January, I participated in the annual Heads of Mission Meeting in **Vienna**.

On 3 February, I addressed The Conference on Free Media “Twenty Years After the Fall of the Berlin Wall: What became of press and political freedom?” in **London, United Kingdom**.

On 4 February, my Office participated at a roundtable on “The Role of Media Legislation in the Development of the National Information Space” in **Minsk, Belarus**.

On 6 February, I gave the keynote address at the “Media for Diversity” conference in **Prague, Czech Republic**.

On 20 February, my Office participated in a conference in Tirana on the finalization and implementation of the country's digital strategy. The event was organized by the OSCE Presence in **Tirana, Albania**.

On 20 February, I addressed the OSCE Parliamentary Assembly's General Committee on Democracy, Human Rights and Humanitarian Questions in **Vienna**.

On 26 - 27 February, I delivered the keynote speech at the University of Vienna conference on "European Public Sphere and Journalistic Responsibility" in **Vienna**.

On 19 March, my Office participated in a conference on Human Rights organised by the Open Society Foundation Armenia in **Yerevan, Armenia**.

On 30 and 31 March, following the invitation by Deputy Chairman of the Cabinet of Ministers and Foreign Minister Rashid Meredov, I opened a weeklong training seminar for journalists and gave a lecture to students at the newly established Institute for Foreign Relations in **Ashgabad, Turkmenistan**. In meeting with Minister Meredov, we discussed future cooperation in the media field.

Activities confirmed for the next reporting period

- On 23 - 24 April, I will participate as a speaker in the VII Eurasian Media Forum in **Almaty, Kazakhstan**.
- On 27 - 28 May, I will participate in an international conference on the role of new information technologies in the work of print and electronic media in **Bukhara, Uzbekistan**.
- On 9 - 12 May, I will participate as a keynote speaker in the conference of media ombudspersons on self regulation in **Washington D.C., United States**.

Fundraising

As every year, I use the opportunity of my first address to the Permanent Council to announce our **fundraising efforts for 2009**.

The financial support we have been receiving from participating States is essential in implementing some of our most successful projects, such as the regional media conferences in the South Caucasus and in Central Asia, and the training events organized in the field of media self-regulation and interaction between the media and state press services. We hope that we can continue benefitting from your funding in 2009.

Allow me to extend a warm thank you to the donors who contributed in 2008. We are equally pleased to see the initial positive feedback of some participating States to our fundraising efforts this year, among them **Austria, the Czech Republic, Germany, Norway, Sweden** and the **United States**.