

European Yearbook on Human Rights 2010

edited

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Table of Contents

Editors' Preface	7
Abbreviations.....	15
I Topics of the Year	19
Thomas HAMMARBERG	
Respecting the Rights of Migrants in Today's Europe: A Call for Action.....	21
Manfred NOWAK	
The Development of Human Rights in Europe after the End of the Cold War	31
Florence BENOÎT-ROHMER	
Completing the Transformation: Values and Fundamental Rights in the Treaty of Lisbon	49
Gerald STABEROCK	
Time to Take Stock and Undo the Damage? Reflections on Counter-Terrorism and Human Rights	65
II European Union.....	85
Wolfgang BENEDEK	
EU Action on Human and Fundamental Rights in 2009	87
Hannes TRETTER and Anna MÜLLER-FUNK	
The European Agency for Fundamental Rights in 2009: Opportunities, Responsibilities and Prospects.....	109
Jean Paul JACQUÉ	
Les droits fondamentaux dans le Traité de Lisbonne.....	123

Table of Contents

Michael REITERER

Human Rights as Part of the EU Foreign Policy After Lisbon: In
Defence of Western Values and Influence? 141

Markus MÖSTL

Mainstreaming Human Rights in the Common Security and
Defence Policy: Reality or Catchphrase?..... 153

Davide ZARU and Maria ZUBER

The EU as a Party of the Convention on the Rights of Persons
with Disabilities: Implications for the Coherence of Internal and
External EU Human Rights Policies..... 169

Theodor RATHGEBER

Ambiguity as a Main Feature: The UN Human Rights Council
in 2009..... 183

III Council of Europe..... 195

Philip CZECH

Widening the Scope of Application? The European Court of
Human Rights' Case-Law on Jurisdiction in 2009..... 197

Brigitte OHMS

The Coming into Force of Protocol No. 14 and the Short but Very
Successful Life of Protocol No. 14bis to the European Convention
on Human Rights 207

Agnieszka SZKLANNA

The Impact of the Pilot Judgment Procedure of the European
Court of Human Rights on the Execution of Its Judgments..... 223

Andrew DRZEMCZEWSKI and James GAUGHAN

Implementing Strasbourg Court Judgments: the Parliamentary
Dimension 233

Rory O'CONNELL	
Only Partial Neglect? Developments in the Case-Law of the European Court of Human Rights on Socio-Economic Rights of Non-Nationals	245
Joachim RENZIKOWSKI	
Coming to Terms with One's Past: the Strasbourg Court's Recent Case-Law on Article 7 ECHR and Retroactive Criminal Liability	257
Franziska KLOPFER	
Towards Greater Freedom of Expression and Information Online: Recent Standard-Setting Practice of the Council of Europe	267
Emma LANTSCHNER	
Evolution and Value of the Thematic Commentaries of the Advisory Committee of the Framework Convention for the Protection of National Minorities	275
IV OSCE	285
Bernhard KNOLL and Jens-Hagen ESCHENBÄCHER	
Human Rights and Security in the OSCE Region in 2009.....	287
Christian STROHAL	
Alive. And Well? The Need for a Stronger Peer Engagement in the OSCE	297
Ženet MUJIĆ	
The OSCE Representative on Freedom of the Media – an Intergovernmental Watchdog: an Oxymoron?	309
V Civil Society/NGOs/Cross-Cutting Issues	321
Sihem BENSEDRINE	
Les valeurs démocratiques européennes à l'épreuve de la realpolitik: les accords d'association Tunisie-UE – modèle ou caricature.....	323

Table of Contents

Matthias C. KETTEMANN

Internet Governance and Human Rights in Europe: Towards a
Synthetic Approach.....335

Biographies 353

Ženet MUJIĆ*

The OSCE Representative on Freedom of the Media – an Intergovernmental Watchdog: an Oxymoron?

Table of Contents

A	Introduction.....	309
B	The Mandate	310
1	Instruments of the RFoM	311
2	Independent Intergovernmental Function	313
C	Fields of Activity, Achievements and Challenges	316
D	Outlook	318

Keywords

Media freedom, human rights, freedom of expression, Organization for Security and Co-operation in Europe, Representative on Freedom of the Media, Helsinki Final Act, monitoring and early warning

A Introduction

Civil society and international media freedom advocates reacted with scepticism when, in 1996, Freimut Duve proposed to the Organization for Security and Co-operation in Europe (OSCE) the establishment of an office to observe and protect the professional freedom of journalism. Duve, a former journalist and German parliamentarian, was the chair of the Human Rights Commission of the OSCE's Parliamentary Assembly. He later became the OSCE's first Representative on Freedom of the Media (RFoM). The rationale behind placing such an office within the framework of an intergovernmental security organization was not only that press freedom was a cornerstone of human rights and that independent media were vital for building and sustaining democracy. Rather, the consequences of synchronized or controlled media in Europe's recent history had shown that press freedom, independent and pluralistic mass media, and freedom of expression are supporting pillars of a lasting security structure for every state.

However, the question remained: Wasn't governmental non-intervention the prerequisite for a truly independent office tasked with defending press freedom? How sincere would an effort by an intergovernmental body, by nation states be to draw up a firm and credible mandate for an institution that was to defend the

* The opinions expressed in this article are those of the author and may not necessarily reflect those of the OSCE or the OSCE Representative on Freedom of the Media.

states' fourth estate and especially given that all major media freedom advocacy bodies were non-governmental in nature for a good reason?

Twelve years after the creation of the post, in spring 2010, the term of the second Representative on Freedom of the Media, Miklós Haraszti, comes to an end. With over one decade of institutional history and after two Representatives, it is time to take stock of the results.

Section B. outlines the history of the institution and its mandate. It presents the instruments with which the OSCE member states equipped the incumbent and also introduces the specifics of the nomination process leading to the appointment of the RFoM. Section C. focuses on the fields of activity, the achievements reached over the last decade and the challenges the media face today. The fourth and final part (section D.) discusses future prospects.

B The Mandate

The way leading to the realization of an Office of Media Freedom was difficult and lengthy. The negotiations within the OSCE did not prove easy. They were dominated by the concern of duplicating already existing intergovernmental institutions, namely respective offices within the UN and the Council of Europe. During the Lisbon Summit of Heads of OSCE states in 1996, however, the member states unanimously declared that

[f]reedom of the press and media are among the basic prerequisites for truly democratic and civil societies. In the Helsinki Final Act, we have pledged ourselves to respect this principle. There is a need to strengthen the implementation of OSCE commitments in the field of the media, taking into account, as appropriate, the work of other international organizations. We therefore task the Permanent Council to consider ways to increase the focus on implementation of OSCE commitments in the field of the media, as well as to elaborate a mandate for the appointment of an OSCE representative on freedom of the media to be submitted not later than to the 1997 Ministerial Council.¹

During the preliminary stages of drafting the mandate for the envisaged Representative on Freedom of the Media, the OSCE sought the assistance of non-governmental press freedom organizations. Initial scepticism stemmed from the disappointment regarding the unmet expectation of civil society with regard to the UN Commission on Human Rights' Special Rapporteur on Freedom of Expression and Opinion, who was considered to mediate rather than to advocate. The final text of the mandate of the OSCE's Representative on Freedom of the Media, adopted on 5 November 1997 by the OSCE Permanent Council, however, proved to be incomparable to its UN counterpart and pioneering for an intergovernmental structure dating back to 1975. The first RFoM was appointed by the OSCE's foreign ministers during the Copenhagen Ministerial Council meeting and took office on 1 January 1998.²

1 OSCE Lisbon Document 1996, Lisbon Summit Declaration, OSCE DOC.S/1/96, 3 December 1996, http://www.osce.org/documents/mcs/1996/12/4049_en.pdf.

2 OSCE Ministerial Committee, Decision on the Appointment of the OSCE Representative on Freedom of the Media, 18-19 December 1997, OSCE MC(6).DEC/1, http://www.osce.org/documents/mcs/1997/12/4167_en.pdf.

The mandate and responsibilities of the post, the status of the incumbent and the range of activities demonstrate the political far-sightedness of the OSCE's members and their understanding of the comprehensive post-Cold War security concept: "freedom of expression is a fundamental and internationally recognized human right and a basic component of a democratic society and [...] free, independent and pluralistic media are essential to a free and open society and accountable systems of government."³

The principal objective for the establishment of a media freedom office was to "strengthen the implementation of relevant OSCE principles and commitments as well as to improve the effectiveness of concerted action by the participating States based on their common values."⁴ Furthermore, the member states confirmed, "that they will co-operate fully with the OSCE Representative on Freedom of the Media. He or she will assist the participating States, in a spirit of co operation, in their continuing commitment to the furthering of free, independent and pluralistic media."⁵ Though couched in highly diplomatic language, this formulation recalls statutes of self-regulatory bodies within the media field. Indeed, one could argue that the OSCE members sought to foster politically binding media freedom commitments by institutionalizing them in this office and establishing an authority mandated to monitor adherence: an approach akin to national media accountability systems.

The then 54 OSCE foreign ministers consensually agreed to mandate a rapporteur on media freedom – independent of the OSCE's Secretariat and individual states and directly accountable to the organization's decision-making body, the Permanent Council – to monitor their countries adherence to media freedom obligations, to "observe relevant media developments in all participating States, [...] advocate and promote full compliance with OSCE principles and commitments regarding freedom of expression and free media."⁶

The main tasks of the RFoM are, firstly monitoring, early warning and rapid response in cases of serious breach of freedom of expression standards and "identified obstruction of media activities and unfavourable working conditions for journalists."⁷ Secondly, assistance to participating states complements the core mission and is provided in the form of recommendations, legal assessments of media relevant (draft) legislation and projects aimed at developing an environment conducive to media freedom.

It was agreed that the office would be funded by the member states through the overall OSCE budget, thus ensuring financial independence.

1 Instruments of the RFoM

The mandate holder's own international esteem and level of reputation coupled with the option to go public about possible threats to media freedom represent

3 Mandate of the OSCE Representation on Freedom of the Media, OSCE PC.DEC No. 193, 5 November 1997, PC Journal No. 137, http://www.osce.org/documents/pc/1997/11/4124_en.pdf.

4 Ibid.

5 Ibid.

6 Ibid.

7 Ibid.

the foremost instruments at the RFoM's disposal.⁸

All mechanisms – a) the possibility and in fact requirement to address questions, recommendations or warnings regarding media freedom to OSCE states; b) the prescribed cooperation with state and non-governmental actors; c) the possibility to “collect and receive information on the situation of the media from all bona fide sources”⁹ (including media themselves); and d) the authorization to receive suggestions for fostering compliance with relevant OSCE commitments from civil society – all these instruments would have a much lower impact had the OSCE not agreed that the RFoM was to “be an eminent international personality with long-standing relevant experience from whom an impartial performance of the function would be expected [and who is] guided by his or her independent and objective assessment regarding the specific paragraphs composing this mandate.”¹⁰

It is this obligation to independently assess not only any given media situation or possible violation of human rights but also to define the most appropriate ways of addressing media freedom issues and of suggesting remedies – irrespective of any preferences by OSCE member states – that empowers the office of the RFoM. The RFoM is thus not confined to a simple data collection function, providing information services for the OSCE's participating states. Within the structure of the organization, it represents an autonomous institution with inherent powers and authority to not only assess and enquire, but also to remind participating states and follow up on its recommendations.

Unlike the OSCE High Commissioner on National Minorities, whose approach and indeed strength is silent diplomacy, the RFoM has the authority and in fact the duty to go public in order to warn of serious instances of non-compliance with the commitments.

One venue of the RFoM's public arena is the theatre of international community, that is, the audience of diplomats. Regular reports, usually impatiently and sometimes anxiously awaited by the participating states, are presented to the Permanent Council and made publicly available. They include an account on the watchdog's communication exchange with OSCE participating states and the office's projects and activities. They also point out the state of affairs of media freedom concerning any particular media freedom dimension (defamation, media regulation, public service broadcasting, violence against journalists, etc.)¹¹. More visibly and not less importantly, the RFoM has also the power to issue – at its own discretion – public statements and press releases on media freedom viola-

8 The first RFoM, Freimut Duve, held the post from 1997 until 2003. He is a well known publisher-journalist and parliamentarian who focused on the defence of human rights. Duve received the Hannah Arendt Award for Political Thinking in 1997. Miklós Haraszti, in office from 2004 until 2010, is a Hungarian writer, journalist and human rights advocate who co-founded the Hungarian Democratic Opposition Movement. In 1980, he became editor of the samizdat publication *Beszérlő*. After the collapse of the Iron Curtain, he took part in the roundtable on free elections and became member of the Hungarian parliament.

9 Mandate of the OSCE Representation on Freedom of the Media, OSCE PC.DEC No. 193, 5 November 1997.

10 Ibid.

11 See RFoM's regular reports to the OSCE Permanent Council, <http://www.osce.org/fom/documents.html?lsi=true&limit=10&grp=296>.

tions as they occur. While the main addressees of the regular reports are clearly the fifty-six OSCE participating states, the public statements are meant for and reach a much wider audience, which includes civil society and media themselves in the respective states and beyond. Compared to the regular reports, public statements have a different impact and objective: the aim of the former is to inform governments and to recommend certain action to them, whereas the latter's is to fulfil the early-warning function fundamental to the post by making the issue a topic of the state's political process and raising the awareness of its civil society.¹²

So-called "assessment visits" paid to any given OSCE participating state by the RFoM combine both of these approaches. They are well-prepared series of meetings with major stakeholders: government officials, representatives of civil society, and media professionals. Assessment visits are generally concluded with press conferences and followed by a comprehensive written report, which is then presented to the OSCE Permanent Council and also made publicly available.¹³

Only by being mandated to revert to the public via both, the government and the civil society, can the RFoM comply with the mandate's specific request to "concentrate [...] on rapid response to serious non-compliance with OSCE principles and commitments."¹⁴

2 Independent Intergovernmental Function

The intergovernmentally agreed independent nature of the RFoM's post and mandate relies on three main elements: the nomination process of the officeholder, the above-mentioned option to go public, and the autonomous character of the institution.

Although they are not laid out in detail, the nomination, selection and appointment processes of the RFoM are rather simple. Due to the OSCE's consensus principle,¹⁵ inherent in all decision-making procedures, the appointment procedure is, however, lengthy and characterized by intense behind-closed-doors negotiations – not uncommon for international organizations. The appointing authority is nominally the Ministerial Council that follows the recommendation of the country holding the Chairmanship. It is also the Chairman-in-Office who formally initiates the nomination and selection procedure, ensures consensus and recommends a candidate.

Reaching political consensus on a candidate – someone who meets the criteria of being an eminent international personality with extensive experience in the field of media or human rights advocacy and at the same time is acceptable to all fifty-six member states – is comparable in difficulty to the political negotiations involved in drafting the mandate. Indeed, the transition from Freimut Duve to Miklós Haraszti was anything but smooth. For months, the OSCE participating states could not agree on a candidate leaving the office in a limbo, without a

12 See RFoM's press releases, <http://www.osce.org/fom>.

13 See RFoM's country reports, <http://www.osce.org/fom/documents.html?isi=true&limit=10&grp=295>.

14 Ibid.

15 Consensus is not defined as unanimity, but as the absence of any significance disagreement.

voice and thus toothless for several weeks. With Haraszti leaving the post in mid-March 2010 and a successor having been recommended for appointment only at the beginning of March¹⁶, there was concern that this scenario might reoccur. Such a situation would have inevitably weakened an otherwise strong and well-respected institution.

Having said this, a candidate on whom political consensus eventually could be reached profits from a robust mandate that is protected by the same consensus requirement. Any decision made by consensus has the advantage of having had all OSCE members agree to it. Contrary to (qualified) majority voting, no participating state can claim to have been in opposition. In the case of the RFoM, the incumbent is thus able to perform the tasks independent of any outside influence or obstruction.

As indicated above, the RFoM's option to issue public statements lies at the core of the post's political independence and is its mightiest tool. The defence of media freedom and the protection of the right to freedom of expression by definition need to be placed in the public sphere. Public, pluralistic debate cannot develop behind closed doors and by means of silent diplomacy. The RFoM also depends on the public as a channel through which to exert influence. The incumbent is free to publicly and prominently pin-point shortcomings of a country's media freedom situation and to urge government's and law-enforcement agencies to change their course of action. The RFoM's tasks also include calling on politicians to respect the right to freedom of expression and to refrain from exercising influence on public media, and reminding public officials that they have to tolerate a higher degree of criticism by the media. The RFoM shares this privilege only with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) located in Warsaw.

Neither the Permanent Council, due to the consensus principle, nor the OSCE Secretariat, due to its rather supportive and neutral role, nor the OSCE field missions, due to the fact that they generally operate based on an invitation by the host country, have the possibility to function with such transparency in reaching out to the wider public: the media's audience and readership.

Only in very grave circumstances is it imaginable that the Permanent Council would reach consensus to jointly issue a public statement of concern. As a rule, it is the country holding the Chairmanship and setting the overall political agenda that has the right and the duty to be in the public spotlight. The OSCE field missions, unless placed under an UN mandate as is the case with the OSCE field missions in Kosovo and in Bosnia and Herzegovina, depend on the agreement of their host country. Over-critical and unfavourable public statements bear the risk

16 On 4 March 2010, the OSCE Permanent Council adopted a decision recommending to the OSCE Ministerial Council the appointment of the next Representative of Freedom of the Media. This decision was made adopted through a so-called silence procedure which ended on 10 March 2010, Haraszti's last day in office: Rather than having actively to agree to the appointment of the next RFoM, the recommended candidate was to be considered appointed if no participating state disagreed within the set period. On 11 March 2010, the Chairperson of the Permanent Council announced that Ms Dunja Mijatović was appointed the new and third Representative. See Permanent Council Decision No. 928 of 4 March 2010, www.osce.org/pc/documents.html?lsi=true&limit=10&grp=336, and OSCE Ministerial Council Decision MC.DEC/1/10 of 10 March 2010.

of deteriorating or freezing political relationships and stalling democratization and security reforms.

The consensus principle in the OSCE also means that every participating state has de-facto a veto right – making it technically almost impossible to reach an agreement on criticizing a situation in any country without the consensus of that particular country.¹⁷

What distinguishes the RFoM from non-governmental media freedom advocates is his/her ability to operate in the public arena beyond the confines of behind-the-scene negotiations (its most powerful instrument). The participating states let the media freedom watchdog decide when, how and to what extent to intervene, while they simultaneously oblige themselves to cooperate. Also, the RFoM is free to decide whom to address: the governments, individual politicians or the public at large. The range of addressees of the message, the level of criticism, the directness of the recommendation – all of these elements are adjustable and can be 'customized' depending on the intended aim and recipient.¹⁸

Furthermore, by being able to reach out to both politicians and the public, by being obliged by the mandate to closely work with both governments and the civil society, the RFoM constitutes the juncture in a triangular-structure where civil society, media and governments are brought together on disputed or controversial issues. Each conference, each seminar organized by the RFoM forces public officials and media professionals to constructively and jointly analyze their mutual relationship, media policies and practice, media legislation, etc. A boycott by one or the other side is highly unlikely since it would damage their credibility.

The third pillar of the institution's independence is represented by the autonomous character of the office of the RFoM. While being bound to the gen-

17 At the 1992 CSCE Council Meeting in Prague, the Ministers decided to adopt the "consensus-minus-one" principle. Article IV, para. 16, allows that "appropriate action may be taken by the Council or the Committee of Senior Officials, if necessary in the absence of the consent of the State concerned, in cases of clear, gross and uncorrected violations of relevant CSCE commitments" (OSCE Prague Document on Further Development of CSCE Institutions and Structures, Prague Meeting of the CSCE Council, 30-31 January 1992, p. 17, http://www.osce.org/documents/mcs/1992/01/4142_en.pdf). This "consensus-minus-one" mechanism was used only once in the history of the CSCE/OSCE against a participating state: on 8 July 1992, Yugoslavia was suspended from the OSCE for its involvement in the conflict in Bosnia and Herzegovina.

18 RFoM's press release of 8 February 2010 on Kazakhstan "misuse of libel laws to muzzle the press" illustrates an example of the effectiveness of the office's intergovernmental character: on 1 February, the Almaty district court had ordered the seizure of the print runs of five independent newspapers. All papers had published letters by an exiled government minister who accused Timur Kulibaev, the President's son-in-law, of corruption. The court also banned any reports "damaging the honor and integrity" of Kulibaev. Only hours after the RFoM voiced criticism in a press release of 8 February 2010, the same court not only reversed the ruling but also dismissed Kulibaev's defamation lawsuit against the five independent papers. See OSCE media freedom representative criticizes 'misuse' of libel laws to muzzle the press in Kazakhstan, Tajikistan, and Hungary, OSCE RFoM Press Release, 8 February 2010, http://www.osce.org/fom/item_1_42678.html. See also Kazakh Court Overturns Media-Criticism Ban, Radio Free Europe/Radio Liberty, 9 February 2010, http://www.rferl.org/content/Kazakh_Court_Overturns_Media_Criticism_Ban/195279.html.

eral OSCE rules and regulations, covering financial and administrative areas, the office is financed by the overall OSCE budget: the consensus budget is composed of contributions from all participating states, and is approved as a whole and not along individual budget lines. The RFoM is free to propose the size of the budget, to set the office's multi-year policy as well as the annual strategy and to prioritize activities or areas of involvement anytime at its own discretion. OSCE member states may and do suggest projects or fields of activities; however, the final decision as to the 'if and how' remains the sole responsibility of the RFoM.

C Fields of Activity, Achievements and Challenges

The office of the RFoM operates both vertically and horizontally: vertically, by observing each OSCE country's security situation for journalists, its media framework and media structures regardless of the medium (print, radio-television, new media); horizontally, by analyzing thematic pillars of free media across the OSCE, including the state of public service broadcasting, access to information regimes, defamation provisions, and the free flow of information on the Internet.¹⁹

The RFoM refrains from comparing the situation in one country with the situation in another country or establishing ranking systems, but rather measures development and progress against universal standards and OSCE commitments.

During its mere twelve years of existence, the office, through its two Representatives, managed to help the participating states to cover a significant distance on their road towards implementing and fulfilling today's media freedom standards.

At first, Freimut Duve's biggest success was, however, the respect he and the new institution gained amongst civil society and international media advocates. It was Duve's personal dedication with which he shaped and interpreted the office's mission and his steadfastness with which he pursued the defence of media freedom and freedom of expression that made his tenure so effective.²⁰ Within a few years he managed to establish friendly, professional, and moreover durable relationships with all major media advocacy bodies, turning the office into an established and esteemed partner regardless of its intergovernmental character and the initial scepticism it was confronted with.

It was also under Duve that the first declaration of the three international rapporteurs on freedom of expression was issued, establishing a new international mechanism. For the first time, in November 1999, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE RFoM and the Special Rapporteur on Freedom of Expression of the Organization of the American States got together to issue a joint declaration recalling freedom of expression as a fundamental and internationally recognized human right and stressing the indispensability of independent and pluralistic media for a free society and accountable governments.²¹

19 For more information on the RFoM's activities see the web site: <http://www.osce.org/fom>.

20 See also Christiane Hardy/Rebecca Law (eds.), *Letter to a Man of Letters. A Tribute to Freimut Duve, Essays in Honour of Freimut Duve on the Occasion of the End of his Tenure as the first Representative for Freedom of the Media*, Vienna 2003.

21 *International Mechanisms for Promoting Freedom of Expression: Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE*

Every winter since then, the three rapporteurs would meet again to issue a declaration focusing on particular threats to freedom of the media. In December 2006, the group was extended to include the new Special Rapporteur on Freedom of Expression of the African Commission on Human and Peoples' Rights and, in February 2010, after having warned of numerous threats to media freedom and having suggested remedies to existing shortcomings, the four international watchdogs issued their latest declaration commemorating the tenth anniversary and identifying ten key challenges to freedom of expression in the next decade.²²

What had started successfully under Duve's tenure was continued and extended during Haraszti's term. This is valid also for the assistance provided to those participating states that, after the fall of the Iron Curtain, found themselves in a changed socio-political system and were slowly moving from state media structures to a system of pluralistic, independent and critical media. Particularly between 1999 and 2003, the office was essential in supporting the countries of Southeast Europe in the transition from state to public broadcasting. While many countries have completed this transition, some other states have yet to fully complete the public service broadcasting reform and, moreover, to identify appropriate mechanism of independent financing.²³

The completion of the transition process from state to public service broadcasting could be described as moving eastwards. However, it was the former socialist countries that assumed the leading role in decriminalizing defamation. Under Haraszti's tenure, the office embarked on a long-term lobbying project aimed at removing criminal libel provisions in the OSCE area, on one hand, and strengthening voluntary self-regulation systems, on the other. Bosnia and Herzegovina, Estonia and Georgia, followed by Croatia, the former Yugoslav Republic of Macedonia and Serbia, were the first new democracies to reform their libel provisions and decriminalize and 'deprisonize' defamation – with most of the established democracies in the OSCE area keeping these obsolete provisions on the statute books. It was also thanks to Haraszti's persistence over the years that in 2009, the parliaments of Ireland, Romania and the United Kingdom decided to follow suit and removed libel as a criminal offence, thus strengthening the right to freedom of expression and freeing the media from chilling effects.

Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 26 November 1999, http://www.osce.org/documents/rfm/1999/11/198_en.pdf.

22 International Mechanisms for Promoting Freedom of Expression: Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information, 2 February 2010, http://www.osce.org/documents/rfm/2010/02/42638_en.pdf.

23 The new EU member states and some EU candidate countries have successfully completed the transition to public service broadcasters. Sustainable financing mechanisms have to be implemented for the public broadcasters in Albania, the former Yugoslav Republic of Macedonia and Kosovo. The reform and unification of the public broadcasting system in Bosnia and Herzegovina has stalled and it remains fragmented along ethnic lines.

Despite these remarkable achievements, the media situation in the OSCE area has seen some worrying developments over the last few years. More, not fewer, journalists have lost their lives in the course of their duty. Violence against journalists is increasing in Southeast Europe and parts of Central Asia.²⁴ In some of the countries of the European Union, politicians and public officials are trying to silence critical journalists and media outlets by demanding exorbitant financial damages in civil defamation lawsuits, thus ignoring the core function of media as a fourth critical pillar of any democratic state. Across the OSCE, countries, in an attempt to enforce national security or copyright legislation, are restricting the free flow of information and freedom of expression on the Internet. Commercial pressure on media and journalists is also a challenge which can be observed in many if not all OSCE participating states.

D Outlook

The above mentioned ten key challenges to freedom of expression, jointly outlined by the four rapporteurs on freedom of expression in their tenth anniversary declaration of early 2010, distil the most serious challenges, all affecting areas indispensable for a politically and financially independent, free, and safe media environment.²⁵ The prospects are not encouraging.

The universality of international human rights standards, also in the context of the OSCE and its media freedom commitments, is being questioned. During its 2009 Chairmanship, Greece – in an attempt to further OSCE media freedom commitments and develop stronger tools for the RFoM – proposed to adopt a decision on “fostering freedom of the media and enhancing pluralism” at the 2009 Ministerial Council Meeting. After lengthy discussions, many objections and several revised and (in the course of negotiations) softened draft versions, two Central Asian member states could not agree on adopting the following main points: guaranteeing free flow of information on the Internet, preventing media concentration and state ownership of broadcast media, combating of violence against journalists, and the encouraging of media to establish self-regulatory mechanisms. By objecting to subscribe to these four pillars of a free media framework, the countries in fact questioned the very structure and basic prerequisite of a true democracy.

Politicization of media and attempts by politicians and governments to manage or control freedom of expression and the free flow of information always have and will continue to represent the foremost threat to free media, particularly public service media. Existing governmental or political ownership of media, stalled privatization processes of media, or attempts by politicians to exercise influence

24 See also the annual press freedom indices of Freedom House, <http://www.freedomhouse.org/template.cfm?page=251&year=2009>, and Reporters without Borders, <http://www.rsf.org/en-classement1003-2009.html>.

25 International Mechanisms for Promoting Freedom of Expression: Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information, 2 February 2010, http://www.osce.org/documents/rfm/2010/02/42638_en.pdf.

over editorial content, financing, advertising, or regulatory aspects are cases in point.

Related to the politicization of media are efforts to legislate or enforce (by law, fear or violence) “neutral” speech irrespective of the public interest, by banning speech which disrespects the reputation of public officials or the state, statement of opinions, and articles that criticize ideologies, religions or schools of thought.

The attempt to monopolize media does, however, not come from governments alone. The increasing commercial pressure to which media are exposed, the battle for advertisers, readers and audience shares, as well as the industry’s evolving fight over the Internet supremacy, have led to a rising media concentration. With the development of multi-media and new media platforms, concentration is no longer the simple merger or grouping of media outlets. Media concentration in the information society also means the combination of information, telecommunication, software, and web technologies under one roof – it means the controlling of communication channels, the collection, storage, evaluation, and selling of data of media consumers for either commercial or political purposes.

While traditional and independent print and broadcast media are the fourth estate of a democratic society, monopolized and commercially instrumentalized online media and the Internet might fall victim to the same industry that helped develop and foster it.

It remains to be seen whether some governments’ attempts to control, guide, filter, or silence debate and criticism, and to restrict freedom of expression, will be a political feature only or whether and to what degree information and software corporations will follow suit.