

**FREEDOM OF THE MEDIA:
ACCESS TO INFORMATION AND PROTECTION OF
JOURNALISTS**

**13 - 14 July 2006
Hofburg, Vienna**

Annotated Agenda

Introduction

The OSCE has rightfully recognised that free and well-developed media are a cornerstone for stable and peaceful societies.¹ Furthermore, the first Supplementary Human Dimension Meeting (SHDM) in 2001 was devoted to the theme of freedom of the media. The second SHDM in 2006 builds on existing commitments and this previous meeting.

This SHDM will look at three major challenges in the domain of freedom of the media.

The first session will address the issue of the media's access to government-held information. Throughout the OSCE region, there are different practices and information "cultures" in place. Unfortunately, OSCE commitments in this regard are often neglected or contravened and best practices are not applied everywhere.

The session could discuss the recently occurred tensions throughout the OSCE region between security needs of States and investigative rights of the media.

*The second session*² will be a special event with a panel of high-profile speakers. These experts will discuss voluntary professional standards that may be able to accommodate freedom of expression, and promote mutual respect and understanding in a compatible way. In a democratic society it is vital that the media remain independent from governmental control. However, the media can also be sensitized to help it ensure that the portrayal of different segments of society is non-discriminatory and unbiased.

¹ Relevant OSCE commitments include the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE; the 1996 Lisbon Summit Declaration; the 1990 Copenhagen Document

² In accordance with the Chair's perception paper, CIO.GAL/38/06

The panel will also look more closely into the political, social and cultural context of such conflicts and to voluntary professional standards and self-regulatory systems of the press in multicultural environments.

The third session will deal with administrative obstacles that the independent press or individual journalists face in some pS. The OSCE pS have adopted strong commitments that require their governments to provide a secure working environment for the pluralistic media, including an unhindered access to political events and conflict areas.

Day 1

15.00 – 16.00 Opening Session

16.00 – 18.00 Working Session 1: Access to Information

The OSCE pS committed themselves to facilitate access to information as early as 1986.³

Access to information is vital for genuine freedom of the media and the democratic functioning of a state. It enables societies and journalists to expect and, if needed, demand information from the governments and state institutions, thus guaranteeing transparency and accountability.

Additionally, the public's right to information may include the disclosure of classified data when it facilitates investigative journalism and allows the public to hold government officials accountable.

Several categories of practical legislation shape access to information: publications acts, information duties as part of the rules of proceedings of state institutions, governmental information services, protection of sources laws for journalists, 'whistleblower' protection laws for persons who reveal confidential information for the sake of preventing harm to the public, etc. There is also a legitimate need for state and official secrets acts to regulate how to classify information and how to protect vital national interests.

Protection of sources laws restrict governments and judicial systems from obliging journalists to reveal their sources. Such laws typically prohibit governments or courts from imposing sanctions, such as imprisonment or fines, on journalists except in very specific cases. These laws enable journalists to work with confidential sources who deliver information of public importance, including on controversial issues such as public procurement or corruption.

³ The concluding document of the CSCE Vienna Follow-up Meeting in 1986 states that the participating States will facilitate "freer and wider dissemination of information of all kinds", "they will ensure that individuals can freely choose their sources of information", and "will allow individuals, institutions and organisations... to obtain, possess, reproduce and distribute information material of all kinds. To this end they will remove any restrictions inconsistent with the above mentioned obligations and commitments."

Most OSCE pS have adopted state and official secrets acts that prohibit the unauthorized disclosure of governmental information. Ideally, these laws should cover only national security-related information. In some countries, however, they protect nearly all official information, thus preventing the public from being informed about governmental actions, and fostering the potential for abuse of power due to lack of transparency and accountability.

In a number of participating States, penal codes still contain provisions that punish not only the official operatives who broke their oath by leaking classified information, but penalise citizens, including journalists, in cases of unauthorised holding or distribution of governmental information. Liability for dissemination of unauthorised information - with some exceptions like national security data - should lie solely with the officials who were obliged to keep the secrets.

Issues that may be discussed in connection with this topic include:

- The benefits of free access to information (improved civil society involvement in decision-making, transparent governance, successful fight against corruption, and, as a result, increased public trust in governments)
- How should violations of OSCE commitments on access to information be dealt with?
- How should protection of sources laws be constructed?
- What forms of protection have proven useful? Best practices?
- Why are citizens and journalists punished for publishing classified information while the state agents who actually disclosed the information are not?

Day 2

9.00 – 12.00 Working Session 2 – Freedom of Opinion and Expression: The role of voluntary professional standards in facilitating mutual respect and understanding.

This session will feature several high-profile media practitioners from the OSCE area, including the Mediterranean partners.

These renowned speakers will be asked to help answer questions on media freedom and journalistic ethics in multicultural environments.

The independence and pluralism of the media is a fundamental principle that has been enshrined in international law and OSCE commitments. Nevertheless, after several examples of inter-cultural tensions in the wake of secular artistic depictions of religious subjects, suggestions were made to review legislative measures to regulate hate speech in the media.

Instead, the implementation of voluntary professional standards is a non-governmental means of encouraging the media to draw lessons from crises, respect professional standards, including respect for cultural sensitivities, and to thereby improve the contribution of the media to social cohesion while preserving its diversity and editorial freedom.

During this session the culturally different views on artistic expressions will also be debated. The role of images in general and of cartoons in particular will be discussed.

Issues that may be discussed in connection with this topic include:

- What should be the relationship between freedom, responsibility, and quality of the press?
- How can we raise awareness among journalists about religious and cultural sensitivities and diversity within these groups? How can we simultaneously preserve freedom of the press and respect for cultural sensitivities?
- Should the OSCE support the implementation of voluntary professional standards, which can help increase the professionalism and the inter-cultural knowledge among journalists? If so, what is the best way to provide such support, for instance through training of journalists?
- How can voluntary professional standards be formed to allow a diversity of voices and perspectives, including a gender perspective? What efforts could be deployed towards increased cooperation between journalists from different cultural backgrounds, with a view to enhance awareness and mutual understanding?
- What is the role of visual depictions or artistic expressions in the global media? To what extent should editors take cultural sensitivities into account when deciding what material to print?

12.00 – 14.00 **Lunch**

14.00 – 16.00 Working Session 3: Protection of Journalists: Administrative Measures

The 1990 Copenhagen Document confirmed that the pS will ensure that no legal or administrative obstacles will stand in the way of unimpeded access to the media on a non-discriminatory basis⁴. Further, the OSCE pS in the 1991 Moscow Document committed themselves to provide an adequate legislative framework that protects the

⁴ 1990 Copenhagen Document, paragraph 7.8: “To ensure the will of the people serves as the basis of the authority of government, the participating States will provide that no legal or administrative obstacles stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”

rights of journalists. The pS promised that they “will take no measures aimed at barring journalists from the legitimate exercise of their profession⁵”.

As with all industries, the media industry is subject to regulation that allows for its normal functioning. The OSCE commitments recognize the need for an environment whereby all journalists can carry out their work without fear of reprisal. Nevertheless, many journalists, editors and publishers are subjected to administrative harassment, or defamation and libel charges.

RFOM recently observed a worrying trend: additional administrative mechanisms have been adopted in a number of OSCE pS, resulting in unnecessary procedural restrictions to the free functioning of the media. Those measures include, among others, excessive licensing or registration procedures and accreditation difficulties. Such discriminatory barriers contravene OSCE commitments. In order to remove them from legislation or bureaucratic practice in the OSCE region, a discussion of the tendencies and trends is required. In addition, proposals should be made for amendments to existing regulations that govern the legal administration of the media.

Issues that may be discussed in connection with this topic include:

- What options do OSCE pS have to register media for statistical, fiscal or anti-trust purposes without limiting their editorial or business freedom?
- What are the legitimate functions of accreditation of journalists, and how can it be assured that this procedure remains a help to freedom of reporting?
- Does existing legislation provide adequate legal and administrative protection for freedom of opinion and expression? How is this legislation enforced in practice?
- Does existing legislation support pluralism in the media?
- What are the main legal and administrative obstacles faced by the media in the OSCE region?
- Are state-owned and independent media outlets impacted by these obstacles on an equal basis?

16.00 – 16.30 **Break**

16.30 - 17.30 **Closing Session**

⁵ 1991 Moscow Document, paragraph 28.9: “They will, in conformity with international standards regarding freedom of expression, take no measures aimed at barring journalists from the legitimate exercise of their profession, other than those strictly required by the exigencies of the situation.”