



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

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**Regular Report to the Permanent Council**

Mr. Chairman, Ladies and Gentlemen,

This is my second regular report to the Permanent Council this year. Unfortunately, it is becoming a recurring feature that I feel obliged to begin with condolences on the occasion of yet another murder of a journalist in the OSCE region. This time I would like to extend my condolences to the families and friends of two murdered journalists in **Russia**: Valeriy Ivanov from Togliatti and Alexander Plotnikov from Tyumen. Valeriy Ivanov was a leading journalist and chief editor of the local newspaper *Tolyatinskoye Obozreniye* that was well known for its coverage of local organised crime, drug trafficking and corruption. Alexander Plotnikov was one of the founders of the major advertising newspaper in Tyumen, Siberia. I understand that investigations have been launched in both cases and I hope to receive more information at a later stage from the Russian authorities.

I would like to bring to your attention an attack on freedom of expression in **Belarus**: the startling fact that in this one participating State there is an openly-discussed list of literary writers who, in a very brutal way, are identified as authors who should not be published and read. Something unheard of in Europe in years.

In a mid-May meeting with reporters in Minsk, Eduard Skobelev, Editor-in-Chief of the Presidential Administration's news bulletin, urged state-controlled literary magazines not to publish writers critical of the government, listing among those he termed "politically retarded," the well-known Belarusian writers Vasil Bykov, Ryhor Baradulin, Nil Gilevich and Sergei Zakonnikov.

Several independent Belarusian web-sites have published in recent days some striking statements on this matter by the Editor-in-Chief of the journal *Neman*, Nina Chaika, who was recently named Editor by President Lukashenko. In an interview in *Belorusskaya Gazeta*, Chaika declared that she will not allow Vasil Bykov to be published in *Neman* until he writes something about the present situation in the country which would be acceptable to the authorities. She gave a specific reference of an acceptable author and work in the interview and said: "...the fact that the brilliant writer (Bykov) went into politics is his personal tragedy. And the tragedy of the Belarusian nation is that with his involvement in politics he deprived us of his works...I hope that Vasil Vladimirovich (Bykov) has enough talent to stick to today, see tomorrow and forget whatever happened yesterday."

This formation of a list poses a dramatic challenge, unacceptable in an OSCE participating State. In my opinion, intellectuals and writers express their views on the profound occurrences taking place in a country. And in Belarus, which is undergoing so many

historical changes, writers of all types can contribute significantly to a better civil understanding within their nation.

Now on our activities: I would like to inform you here orally on my strategy regarding the Internet and on how I plan to develop a project dealing with the global information space. The written part of the report, which I will not read out, provides you with an overview of some of the cases my Office has monitored in our participating States as well as of our other projects.

On the two Belgian journalists mentioned in that part who were fined for refusing to reveal their sources, I am glad to report that the court has repealed its sentence, and confidentiality of journalistic sources is being respected.

I would like to turn to a topic on which we will focus in the second half of this year: the Internet. It is an infrastructure which is becoming increasingly important throughout the world for all kinds of communication, information and its distribution. Major newspapers and broadcasting services are not the only media to publish their contents online. The number of genuine electronic newspapers and webcast radio stations is rising. Many journalists rely on the Internet as a source for research and gathering information. Independent Internet newspapers provide people with non-biased information in times of conflict. There are many libraries, archives and encyclopaedias online. News, pictures, films, essays and virtually everything else can be exchanged via the Internet. In short, information from many different sources could be available for everybody.

But it seems one cannot take the good without the bad. Unfortunately, "hate speech" and propaganda can be found on the Internet as well. Regrettably, there are handbooks for guerrillas or even manuals how to build bombs on the Internet. Even child pornography, the most abhorrent crime, is accessible. Not that easily, but it can be found.

On the one hand, it cannot be denied that the Internet made such access easier and above all more anonymous. On the other hand, propaganda and illegal content form only a very small fraction of what is available on the Internet. One must remember that terrorism existed long before relevant subversive information became available online.

Although there is a small amount of illegal and intolerable content on the Internet, the benefits outweigh the risks by far, and not only statistically. The Internet itself is a unique infrastructure for the free flow of information, which is essential for democratic societies. Thus, denying access to the Internet or over-regulating its contents is something that cannot be accepted.

Combating terrorism must also not be used as a justification for censorship of any media including the Internet. Once more I would like to stress that there is no excuse or exculpation for acts of terror, hatred or child abuse. But the fight against crime and terror cannot be won by the bowdlerisation or suppression of the Internet or, for that matter, any other media. The free flow of information, ideas and knowledge is one of the most important ways to strengthen tolerance and peace.

Of course there are some obstacles restraining this platform of free expression. First of all the technical infrastructure must be sufficient to fulfil this role. In the OSCE region there are still large areas in South-Eastern and Eastern Europe and in Central Asia with few Internet connections. To change this situation the existence of a telephone or even broadband Net is not the only requirement. Besides computers and modems, independent Internet Service Providers (ISPs) are needed to enable connection to networks.

Once the technical problems are solved, youths and adults everywhere need to develop the competence to participate in the digital world. Training programmes should be offered tailored to individual skills. Internet cafés and libraries could provide more help. Talking about the “digital divide” does not only mean the gap between different countries and regions but also between people within one region.

In conclusion, there are a number of important fields for future activity. First of all the free flow of information on the Internet has to be guaranteed. In the same way as with the "old media," on the World Wide Web censorship and discrimination but also "hate speech" and propaganda have to be fought. The Internet provides a unique platform for free expression and individual contribution and every effort must be made to preserve this freedom and to foster cultural diversity at the same time.

Secondly the "global village" must be taken to the villages. And it is not only the technology and the infrastructure that has to be brought there. Both technical and textual competence have to be developed, too. Many different institutions are needed for this development: schools, universities, media, families, workshops, seminars, Internet cafés and libraries, etc. Close co-operation between international organisations, NGOs and the respective countries is necessary. The first two could mainly provide hardware and training programmes to achieve technical competence. On the other hand, education, as an integrative and cohesive social factor, largely remains a task of states and governments. But a concerted effort is needed in order to work against the digital divide and for freedom of expression and media.

In a Joint Declaration on Challenges to Freedom of Expression in the New Century issued in London on 20 November 2001 by the UN Special Rapporteur on Freedom of Opinion and Expression, the OAS Special Rapporteur on Freedom of Expression and by myself we stated that:

- The right to freedom of expression applies to the Internet, just as it does to other communication media;
- The international community, as well as national governments, should actively promote universal access to the Internet, including through supporting the establishment of information communication technology (ICT) centres;
- States should not adopt separate rules limiting Internet content.

My Office will organise a workshop on the Internet in Vienna this autumn and a larger conference in 2003, and will formulate some practical guidelines. An OSCE handbook for the Internet will be published and an Internet Café Project will be planned for some countries.

Thank you.

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First, one general concern: many of the cases of media harassment that I report to you happen in the capitals of our participating States, except for a few cases that my Office has dealt with, such as the fate of Olga Kitova in Belgorod, **Russia**, and that of Irina Khrol, an editor in Crimea, **Ukraine**. That is why I plan to try to take a closer look at the situation in the provinces in Eastern Europe and the former Soviet Union, focusing on media and corruption, political and financial pressure on the media, and also on a tendency of fostering ethnic intolerance in some of the regions. Here I can mention, for example, Zadar in **Croatia**, where cases of intolerance against minorities are reported in the local media, especially against returning refugees.

Again on **Belarus** : the criminal trial of two journalists from the independent newspaper, *Pagonya*, resumed on 4 June in Grodno in western Belarus after several postponements. I have mentioned this pivotal case previously in several Reports to the Permanent Council. The independent journalists concerned, Nikolai Markevich and Pavel Mozheiko, could face up to five years in prison under Belarus's Criminal Code which contains severe provisions regarding defamation and insult. I repeat my firm convictions that:

- Journalists should not be prosecuted or face prison for what they write;
- Any conflicts should be resolved in a civil, not a criminal court;
- Libel should not be used to clamp down on those who consider themselves in opposition to the current government;
- Heads of State should not receive undue protection from media reporting on their activities.

My Office has consistently spoken out about the distressing state of freedom of expression in the Republic of Belarus, unacceptable in an OSCE participating State. For additional details about the extent to which Belarus limits press freedom, I commend to your attention several recent, professional analyses by international media NGOs on the situation in Belarus, including *Reporters without Borders: a Status Report on Attacks against Freedom of the Press in Belarus* and *Article 19's Belarus: Instrument of Control: a collection of legal analyses of freedom of expression legislation*. Both studies were published in April 2002.

One issue that my Office has not really addressed but that does come up in many of our participating States is that of the confidentiality of a journalist's source of information. Some reporters end up in jail and others are fined for refusing to reveal to a court of law their sources. Just recently, in **Belgium** two journalists from the daily *De Morgen* were ordered on 29 May by a Brussels court to pay 25 Euro for every hour they continued refusing to reveal their sources for an article on the Belgian State Railways (and that it had overshot its budget to build a new high-speed train station in Liège by 250 million Euro.) Confidentiality of journalists' sources is a key principle of freedom of the media and should be respected. I plan to start taking a closer look at these cases in our region.

As you already know, my Office is focusing on **Central Asia** in the near future. Two media reports on **Turkmenistan** and **Kazakhstan** have already been issued, and reports on the other three countries will follow suit in the next few months. I am still looking forward to receiving the relevant legislation for review from Turkmenistan as has been proposed by the delegation here several weeks ago. The preparations for the Fourth Central Asia Media Conference in September are also going ahead as planned. I would like to use this opportunity to again ask for financial contributions to fund this very important event.

For the first time an adviser from my Office visited **Armenia**, where he met with government officials (from the Ministries of Foreign Affairs and Justice), parliamentarians, journalists and representatives from the NGO community. My adviser focused on the general media situation in Armenia as well as on two specific cases: the TV companies *Noyan Tapan* that was taken off the air last year, and *AI+* that lost its licence this April. Although, in general, freedom of the media does exist in Armenia, several worrying developments have raised some questions regarding the government's commitment to the fundamental right of freedom of expression.

*AI+* was the only broadcaster that basically provided air-time to all parties and movements in the highly politicised climate that exists in Armenia: opposition leaders, intellectuals, journalists were able to speak and debate on *AI+*. Now this television station, one of the

most popular in the country, is off the air replaced by nothing. According to several experts, including Shavarsh Kocharyan, the Chairman of the Standing Committee on Science, Education, Culture and Youth Affairs of the National Assembly, that also dealt with media matters, *AI+* lost its licence (although an existing broadcaster, it had to bid for its own frequency after its licence expired) in violation of several provisions of the Law on Television and Radio Broadcasting. The company that won the licence, *Charm*, has not yet started broadcasting and under current legislation, can wait for six months after receiving its licence to start doing so. As a result, a popular TV station is no longer on air. The public reacted with anger to this closure and one of the largest demonstrations in recent years was held in Yerevan in defence of *AI+*. The TV station has already unsuccessfully challenged its case in courts and may well go to the European Court of Human Rights in Strasbourg.

What can be done to rectify this situation?

First, I believe that the Armenian government should conduct a new tender for existing and non-used frequencies, that could be held as soon as possible, preferably this summer, and *AI+* and *Noyan Tapan* should be encouraged to participate. For the time being, the authorities can easily introduce an amendment to the current Law allowing a TV company that has lost its licence to continue broadcasting until the new licensee is ready to replace it.

Second, the Law on Radio and Television should be amended. Here the Council of Europe is actively involved in providing counselling and my Office will also look at ways to assist the government and the National Assembly in this endeavour.

Third, the current draft Media Law, that is being discussed publicly, should be thoroughly analysed by international experts before being submitted to the National Assembly for approval.

One of the representatives of the NGO community stressed to my adviser that "If the government is allowed to get away with closing down *AI+*, it will then start pressuring the print media. They are next." For the sake of Armenia and human rights in that country, I hope his pessimistic prediction will not become reality. And it is up to the authorities to prove him wrong.

I still look forward to receiving some positive news regarding the legal review of **Ukrainian** media legislation conducted jointly by my Office and the Council of Europe. I hope that the recommendations made by our experts will be taken on board by the newly elected parliament (Verhovna Rada).

In mid-March of this year I intervened with Minister of Foreign Affairs Igor Ivanov of the **Russian Federation** concerning the murder of Russian reporter Natalya Skryl as well as two cases of libel facing the independent newspaper *Novaya Gazeta*. This intervention resulted in a useful exchange of letters with the Minister of Information Mikhail Lesin. The Minister assured me of his deep outrage when Russian journalists such as Skryl and others are murdered and of his appeal to the Minister of Internal Affairs requesting better protection for journalists and special attention to different kinds of criminal activities against them. Minister Lesin also assured me that his Ministry is closely monitoring the lawsuits against *Novaya Gazeta* and doing "...everything necessary so as to provide for the full realization of freedom of expression in Russia."

However, I am still concerned about the fate of *Novaya Gazeta*, a newspaper which has had a critical and independent stance. On 7 June Moscow Court bailiffs seized the newspaper's financial documents as a first step in confiscating the newspaper's property. The plaintiff is

*Mezhprombank* which won damages of a sum so high that it may exceed by many times the total sum that the Russian media was ordered to pay for suits in all of 2001. If the bailiff fully enforces the decision to levy this punitive fine against *Novaya Gazeta* before it can appeal the verdict, the Editor-in-Chief has said that the paper will have to close. This would be the second Russian newspaper in recent weeks to suspend publication, the other being *Obshchaya Gazeta* at the end of May. This is yet another example of how detrimental to freedom of expression are both the high level of punitive fines and the ambiguous laws that claim to protect honor and dignity.

The OSCE Mission to **Croatia** has offered its assistance to the Government regarding media legislation and as I understand that the Ministry for European Integration asked the OSCE to provide such assistance. I discussed this matter with the Head of Mission, Ambassador Peter Semneby, and my Office is currently looking for suitable experts who will assist the Government in drafting the relevant changes. We will specifically focus on a new Law on Media (the first draft is expected in autumn 2002). This project will be funded from our regular budget (Legal Assistance Fund). I also understand that the Government of Croatia seems to be committed to introduce new changes to the Law on Telecommunication by the end of the year. Our expert reviewed this Law last November and I believe that his recommendations should be taken into account by relevant Croatian authorities.

On the **Federal Republic of Yugoslavia**: the long-awaited new Media laws have not yet been passed by the Serbian Assembly. The (ninth version of the) draft Act on Broadcasting, supported by the OSCE and the Council of Europe, has been approved by the Government and passed to parliament for discussion and approval. It is currently being reviewed. The draft Act on Telecommunications, although ready, has not been presented to parliament for approval, which is necessary to start the licensing process of the private electronic media. Other relevant pieces of legislation (Act on Freedom of Information; Act on Access to Public Information; Act on Advertising) are still in a very early stage of drafting and public discussion. They are unlikely to be completed and approved by the Serbian Government before fall. The slow pace of legislative reform are keeping Serbian private electronic media under serious constraint, preventing them from planning, investing and expanding their operations.

The OSCE-supported transformation of *Radio Television Serbia (RTS)* is proceeding at a fast pace, with significant improvement in the editorial content and organizational structure. As regards the general situation of the media, no significant violations of journalists' rights and freedoms are being reported. However, there is an increase in the number of lawsuits and trials against media outlets or individual journalists for alleged libel or slander. Often the plaintiffs are former Socialist Party officials, managers of State-owned and private companies protected by the Milosevic regime and, in a few instances, current political leaders.

I am proud to present to you the fourth yearbook of my Office that has been distributed to you today. It includes several interesting contributions, among them on the effects of the tragic events of 11 September on the media.