



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

Human Dimension Committee

Check Against Delivery

4 February 2014

Vienna

**International Standards in freedom of expression online and
how to improve implementation of related OSCE commitments**

Good afternoon, ladies and gentlemen.

Today's topic, **International standards in freedom of expression online and how to improve implementation of related OSCE commitments** is, frankly, quite a mouthful.

What are we talking about when we use the phrase “freedom of expression online?”

What are those “international standards?”

And, perhaps most importantly, what are those “related OSCE commitments?”

Freedom of Expression Online

Let's simplify the terms. What we mean is free expression on the Internet. The very basic argument is this: The right to free expression and freedom of information is not dependent upon the technology used to disseminate the content. Whatever you have to say, you can write it, print it, say it over the radio or on television and over the Internet.

International Standards

The right to free expression itself is spelled out, as many of you know, in Article 19 of the Universal Declaration of Human Rights, which was adopted by the UN General Assembly in 1948, states that “everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.”

Note the wisdom of the phrase there: **through any media** and regardless of frontiers.

The same can be said of the International Covenant on Civil and Political Rights, a UN binding act that finally went into effect in 1976, which guaranteed the right to free expression in terms similar to the Universal Declaration. It also included specific language on how a man can enjoy free expression: “orally, in writing or in print, in the form of art or **through any other media** of his choice.”

And to make a long story short, in 2012 the Human Rights Council, a subsidiary body of the [United Nations General Assembly](#), unanimously and expressly stated that “the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.”

This is not the end of the story.

There are recognized exceptions in the same covenants providing for the rights. Simply put, the right to free expression is not absolute.

The International Covenant on Civil and Political Rights carves out possible exceptions for the rights or reputations of other and for the protection of national security, public order, public health and morals. Let me stress here that these exceptions are not obligatory, but are optional, limited in scope, they are reflected in the national law and they follow national cultures, traditions and priorities.

More or less, the debate about free expression, online or through traditional means, its limits and what constitutes a violation of the right of free expression is usually framed by these simple issues.

I often think of Jean-Jacques Rousseau’s musing that “man is born free and everywhere he is in chains.”

You’re free to express yourself, but...

OSCE Commitments

We have a festering problem here in the OSCE which I need to approach directly. There are a few but important participating States that simply refuse to believe that the right to free expression and freedom of the media that facilitates it extends to Internet communications.

I want to remind them today, as I have before, that mine is a Mandate-driven Institution. And I have read the plain words of Permanent Council Decision No. 633, which is an Annex to Decision No. 12/04 of the 12th Ministerial Council that took place in Sofia in 2004.

In Decision No. 633, the Permanent Council decides that:

Participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights, and to foster access to the Internet both in homes and in schools.

There are other Permanent Council and Ministerial Council statements regarding the Internet but these words seem straightforward enough to ensure my Office’s jurisdiction over Internet-related free expression issues.

Improving implementation of OSCE commitments

Now we get to the meat of the issue: How can we facilitate implementation of the directive provided by Decision No. 633?

I suggest, and not in jest, that all participating States first recognize that the right to free expression applies to Internet or any other new means of communications.

Once that is accomplished, we can go forth on the thorny issues of the day. Here are some of the matters we will be emphasizing in 2014.

Nothing is more important than determining how to keep the Internet an open and public forum.

We need to assist the participating States in understanding that the virtual world is part of the real world. The Internet is not a different medium; it is just a platform, a democratic forum on which many human activities can take place. The Internet today is an essential tool to each one of OSCE's baskets; political and military, economic and environmental, and the human dimension. How well we can properly explain the wide implications of the effect of Internet access may well determine how the Internet is used.

For me, and my Office, this means explaining and championing positions that I believe will lead to wider access and use of Internet resources. These are very practical issues.

Another is beating back the dangers posed to Internet freedom by big government and big business. Both are insidious and have the power to retard development. Just as we need to make sure that governments do not use the canard of terrorism and extremism to limit free expression over the Internet, we also must be wary of the power wielded by device manufacturers, distributors, content aggregators and telecom companies. Today, we are monitoring a lawsuit in the United States that could have far-reaching consequences – whether a telecom company can discriminate in the availability of bandwidth – the net neutrality principle. How that case is decided, and when, may affect us all when we routinely log on.

Another is lobbying against legislation that would impose third-party liability on companies providing connections and services. Governments should not make private companies their personal Internet police to track down and eliminate illegal content. Governmental censorship is forbidden everywhere in the OSCE region, but we shall not allow it to reappear in the covert form of private companies' censorship by demand of the governments.

In 2014 my Office will be spending significant time and resources on the issue of how technology is affecting journalism. We call the project Open Journalism. Some of you may know it as Citizen Journalism. It appears to be the future of the profession, as technology today allow the consumers of news to take part in the development of stories and shape the news – just the opposite of what most of us grew up with, where the mass media sat in that building over there and we consumed what they produced in our homes, offices and cars.

To get a grasp of this phenomenon and its effect on future of the journalism and on freedom of the media, my Office will first hold, in this building, a series of meetings among experts, policymakers and regulators touching on the practice and terminology of Open Journalism, legal issues, accountability and regulatory challenges. The meetings are open for your delegations to attend and interrogate our experts. The meetings will facilitate our understanding of the issues involved, best practices and possible solutions to advance and strengthen human dimension commitments.

From that a series of master classes will be held in the regions to develop the skills of those involved in process, from representatives of media organizations, the online community, relevant government ministries, Internet intermediaries, legislators, lawyers and others.

All policy papers, findings and contributions from the participants will be consolidated, together with relevant publications, in an online resource. This interactive resource will be a platform for the exchange of information, experience and opinions on the topic.

Ladies and gentlemen, 2014 is shaping up to be a very busy year for my Office. We remain deeply engaged in monitoring media-freedom issues both east and west of Vienna. We are often consumed by the issue of violence against the media and we still campaign for decriminalizing speech across the region.

We have been active in providing legal advice to the many participating States that want more legislation enabling media freedom.

And, as you have learned today, we will be actively involved in fulfilling the mission of Permanent Council Decision No. 633.