



Supplementary Human Dimension Meeting
on Freedom of Expression, Media and Information

22-23 June 2020
(online)

ANNOTATED AGENDA

BACKGROUND

The acknowledgment of human rights and fundamental freedoms as an essential factor for peace and security in Europe has been at the center of OSCE commitments since the Helsinki Act 1975.

In subsequent decisions taken at the regular OSCE Summits of Heads of State or Government and at meetings of its Ministerial Council, the participating States have consistently reaffirmed that freedom of expression is a “fundamental” and “internationally recognized” human right, as well as “a basic component of a democratic society”. They take, as their guiding principle, the need to safeguard this right and to maintain freedom of information and freedom of the media (Budapest Summit, 1994).

In 1997, they entrusted the Representative on Freedom of the Media (RFoM) with a mandate to assist them, observe media freedom developments and respond to “serious non-compliance with OSCE principles and commitments by participating States in respect of freedom of expression and free media” (PC Decision 193/97).

The participating States committed themselves to “take every opportunity offered by modern means of communication [...] to increase the freer and wider dissemination of information of all kinds” (Vienna 1989). They also subsequently took note of the increasing role of the internet and other technologies, and adopted commitments in the area of internet freedom. Specifically, they called for the internet to remain “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” (Sofia 2004).

In December 2018, the OSCE Ministerial Council adopted a Decision on Safety of Journalists. As the first holistic OSCE document on freedom of the media, it significantly extends the current set of commitments by the participating States, and paves the way for a global instrument on the subject. The Decision also enables a better understanding of the current threats to journalists’ safety and independent media, as part of a wider common set of commitments on media freedom and freedom of expression in the region.

The implementation gap between existing commitments and national action remains challenging. The OSCE participating States “categorically and irrevocably” recognised in 1991, and reconfirmed in 2010, that the commitments undertaken in the field of human rights

are “matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned” (Moscow 1991, Astana 2010).

The current COVID-19 pandemic has added new layers of context to addressing freedom of information and freedom of the media. The specificity of the current crisis is not only in its broad geographical scale or the concerted governmental response to it, but also in the particular technological perspective of the restrictions introduced on human rights. In their Joint Statement on 19 March, the rapporteurs for freedom of expression and freedom of the media for the UN, the Inter-American Commission for Human Rights, and the Representative on Freedom of the Media of the OSCE stated that: “human health depends not only on readily accessible health care. It also depends on access to accurate information about the nature of the threats and the means to protect oneself, one’s family, and one’s community. The right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media, applies to everyone, everywhere, and may only be subject to narrow restrictions.” Such restrictions need to pass the test of necessity, legality and proportionality. Furthermore, regulatory restrictions should not include, in particular, penalties for the mere dissemination of rumours about such aspects as the scale, origin, cure, or other circumstances of the disease, especially if such information brings about no public harm, either imminently or otherwise. Neither should there be restrictions on disseminating COVID-19 related information from non-official sources. The pandemic has highlighted the need for timely action to secure a fair balance between freedom of expression and the need to protect public health.

Similarly, cases of judicial or administrative harassment and detention of journalists, whistleblowers and other human rights defenders, in retaliation for expressing critical views or reporting on irregularities concerning governments' responses to COVID-19 is of concern. In some cases, restrictions imposed to slow down the spread of COVID-19 were allegedly used to silence government critics and prosecute activists who denounced the poor conditions of state-run quarantine facilities or called for the provision of adequate social programs and financial compensation to people economically affected by the COVID-19 crisis. Several journalists faced criminal charges in retaliation for their coverage of COVID-19, including on social media.

It is necessary for all participating States to ensure that human rights are upheld during this, and any other, crisis. The current complex situation not only presents a challenge, but also creates an opportunity for new, tailored and improved approaches to addressing issues of freedom of expression. The second Supplementary Human Dimension Meeting (SHDM) will assess the efforts made by participating States in addressing the promotion of these freedoms.

The objectives of the SHDM are to:

1. Review and assess challenges currently facing participating States in the implementation of OSCE commitments on freedom of information, freedom of expression and freedom of the media during compound crises, both online and offline, such as the risks related to undue restrictions as a result of governmental policies aimed at protecting public health or countering terrorism and violent extremism.
2. Provide a platform for the exchange of good practices in promoting these freedoms, including in crisis situations.
3. Produce recommendations to the OSCE participating States on upholding freedom of information, freedom of expression and freedom of the media when addressing

current technological and other challenges, and regarding the possible roles for the OSCE institutions to support them in this process.

DAY 1, 22 JUNE 2020

15.00 – 16.00

OPENING SESSION

Opening remarks

Introductory addresses

Technical information

16.00 – 18.00

SESSION I: Freedom of expression and its relation to other fundamental freedoms

Freedom of expression is a fundamental human right and a basic component of a democratic society. In this respect, independent and pluralistic media, alongside vibrant civil society, are essential to a free and open society and accountable systems of government (Budapest 1994). The right to speak freely on important issues in society, including health, the environment or social developments, is crucial for the healthy development of any society. This right is a guiding principle that the OSCE has committed itself to safeguard (Budapest 1994). Every individual, without discrimination, is entitled to both this and other related rights, such as the right to freedom of thought, conscience and religion or belief; the freedom to elect and be elected; the right to participate in public affairs; the right to freedom of association and peaceful assembly; the right to privacy; and the right to freedom of movement.

Particularly in times of crisis, the free flow of information, when unhindered by threats, intimidation or penalties, can protect life and health. It also enables and promotes critical social, economic, political and other policy discussions and decision-making.

This session could serve as a platform to discuss the importance of the rights to freedom of expression and freedom of the media and the need for all restrictions to be strictly in line with international human rights law and standards. These require that all restrictions are prescribed by law, necessary and proportionate to achieve a legitimate aim and non-discriminatory. This session will look into the interdependence of human rights in a modern democracy and ways to promote and respect them in a changing environment. The discussions could include specific challenges which we are facing today, such as the risks related to undue restrictions as a result of measures to counter the use of the internet for terrorist purposes, violent extremist speech, online hatred, or challenges posed by the use of artificial intelligence algorithms.

Questions for discussion can include:

- What is the current state of protection of freedom of expression in the context of other human rights, and how has it changed because of the COVID-19-related crisis?
- How can OSCE participating States effectively address challenges to freedom of expression and other fundamental human rights in the context of compound crises, and how could this best serve peace and security in the region?

- What opportunities and good practices exist in the OSCE region for partnerships and networks, involving states, civil society and other stakeholders to safeguard freedom of expression and other rights in a time of crisis?

DAY 2, 23 JUNE 2020

10.30 – 12.30

SESSION II: Access to information as an essential condition for accountability and citizen participation in public life

Freedom of the media is intertwined with free and timely access to information and transparency in public affairs, the latter being highlighted in the OSCE decisions that recognise its role in fostering accountability in public policy and in preventing and combating corruption, money-laundering and its predicate offences. For example, the participating States recognised “that the ability of an independent media to investigate and to publish the results of that investigation, in accordance with national legislation and international commitments, without fear of prosecution, persecution or physical harm is fundamental to preventing and combating corruption at all levels and in all sectors” (Basel 2014).

Keeping in mind that almost all participating States already have in place statutes on access to information, the session will provide a platform for the participants to discuss the practical measures to be taken to facilitate everyone’s right to access information, and to enhance transparency, accountability and the rule of law in public administration. Transparency in public affairs is an essential condition for ensuring accountability of governments and for the active participation of civil society in political and economic processes. Free and pluralistic media, which enjoy maximum editorial independence from political and financial pressure, have an important role to play in ensuring such transparency.

Access to information enables civil society and the media to help increase public accountability for adverse human rights implications of participating States’ policies. Any measures to counter the use of the internet for terrorist or violent extremist purposes, and for discrimination, as well as measures aimed at countering disinformation, must respect international human rights obligations and standards, including those concerning the right to privacy, freedom of expression, and the rule of law.

Discussions in this session could address public interest disclosures and whistleblowing, for instance in case of human rights violations. Another issue that could be discussed here is the impact of restrictions on access to information on national security grounds, which may undermine the watchdog role of civil society and the media in promoting human rights compliant responses to terrorism.

Questions for discussion can include:

- Why is enforceable and timely access to information, including governmental records and meetings, online and offline, essential for accountability in public policy, particularly during the current crisis?
- Can limitations on access to information during the COVID-19 crisis serve public health considerations (such as to avert direct threats to life and health), or exploit them for the interests of preserving public order and national security? Could tools used today to protect public health be found helpful in the ongoing efforts in the OSCE region to find ways to counteract the general phenomenon of disinformation?

- What are the roles of government agencies, national human rights institutions, civil society and other stakeholders in monitoring and addressing possible violations of the right to access information?

When referring to the freedom of the media, the OSCE commitments particularly highlight the rights of independent free and pluralistic media, that is those “which enjoy maximum editorial independence from political and financial pressure” (Maastricht 2003). For example, the states committed themselves “to take all necessary steps to ensure the basic conditions for free and independent media” (Istanbul 1999) and not “to discriminate against independent media with respect to affording access to information, material and facilities” (Moscow 1991). They have also agreed to 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” (Moscow 1991). This session will provide a platform for the participants to discuss these and other conditions for the enabling environment for free and pluralistic media, including by respecting, promoting and protecting the freedom to seek, receive and impart information regardless of frontiers.

In times of crisis, such as the current COVID-19 pandemic, the public needs news that it can trust. Diverse, pluralistic and independent media can be crucial allies in the fight against COVID-19. Journalism is essential to communicate the findings of scientists, to disseminate reliable information about the pandemic and efforts aimed at containing its spread as well as to promote public debate about measures taken to respond to the pandemic.

The COVID-19 crisis must not become a pretext to introduce measures, special legislation, or decrees that risk hampering the work of journalists and media actors and restrict the public’s right to receive information.

Repeatedly, journalists reporting on the virus have been victims of insults, threats or attacks, especially when covering stories regarding respect for confinement measures. Given the essential role of media workers, participating States must ensure the safety of journalists covering the health crisis and the social implications of the crisis, as per international human rights standards, including on freedom of expression. Aside from concerns about physical safety, journalists, particularly female journalists, are working under considerable psychological stress. In the 2018 OSCE Ministerial Council Decision, participating States committed themselves to engage in enhancing the safety of journalists and media freedom. Examples of concrete steps taken by participating States could be discussed in this session.

The COVID-19 crisis has hit the media sector particularly hard at a time when it plays a crucial role in providing accurate information and countering disinformation about the pandemic. The sector is facing a massive drop in advertising revenues, and the worsening financial situation could mean news organizations are no longer able to provide clear and factual information and counter disinformation about the coronavirus pandemic. Measures aimed at ensuring freedom of the media in this situation are paramount, as the long-term consequences of suppressing independent journalism could significantly erode civil liberties.

The RFoM, as an institution, has an important responsibility to assist participating States by providing expertise for such measures. Civil society actors have an important role to play in holding participating States to account, through democratic accountability, by reminding their governments of the commitments that they have taken for ensuring the safety of journalists

(including the safety of female journalists), freedom of information, and freedom of the media, and by promoting their implementation. Multi-stakeholder engagement on national activities to protect journalists and safeguard media freedom could be discussed during this session. This discussion could also focus on ways to bring national laws, policies and practices, pertaining to media freedom, fully in compliance with international obligations and commitments, so that they do not limit the ability of journalists to perform their work independently and without undue interference.

Questions for discussion can include:

- How can we ensure that the media can fulfil its functions in times of crisis, without undue interference, while respecting the need to protect public health?
- What are the specific additional functions that the media fulfils in times of crisis?
- How do participating States promote equality and non-discrimination of independent media professionals with respect to affording access to information, material and facilities, especially in times of crisis?
- What could the next steps be for the implementation of the 2018 OSCE Ministerial Council Decision for the safety of journalists and media freedom?

16.30 – 17.30

CLOSING SESSION

Reports from the working sessions

Comments from the floor

Closing remarks

17.30

Closing of the meeting

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