

United States Mission to the OSCE

Session 1

Fundamental freedoms I, including: Freedom of expression, free media, and information; Address by the OSCE Representative on Freedom of the Media

As prepared for delivery by Thomas O. Melia, US Deputy Assistant Secretary of State
for Democracy, Human Rights and Labor
OSCE Human Dimension Implementation Meeting
Warsaw, September 24, 2012

The United States welcomes this opportunity to address our concerns regarding respect by participating States for the exercise, both off line and on line, of the fundamental freedom of expression, including by members of civil society organizations and the media. We are grateful to the Irish Chair-in-Office for having hosted the Dublin conference on Internet freedom earlier this year, in which I was pleased to participate. As always, we extend our appreciation to the Representative on Freedom of the Media, Dunja Mijatovic, for her tireless efforts to defend and promote freedom of expression exercised via traditional and new media alike. She and her team have helped us all to identify best practices that can improve our adherence to OSCE commitments. Perhaps most importantly, she has been a principled voice for bloggers, journalists and other activists who are harassed or imprisoned for their work to disseminate independent information that is essential for democratic development.

Nonetheless, the sad truth is that today in 2012, across the globe, and within the OSCE region, the space is shrinking for freedom of expression and the free flow of ideas, opinion and information that are vital to democracy, prosperity and security. In a number of participating States, we are seeing the use of criminal codes to prosecute defamation. In Ukraine, the future Chair of the OSCE, a draft to reinstate defamation as a crime carrying a prison term up to five years is under review in parliament. Russia, which decriminalized defamation as recently as December 2011, has recriminalized it. In some OSCE states we also see: the imposition of often crippling civil penalties for insult or opinion; prosecutions designed to inflict crippling financial damage on news organizations; government dominance in the ownership of media outlets; and the increasing misuse or abuse of anti-terrorism, anti-extremism, or incitement laws to intimidate, harass and prosecute civil society members and journalists for what they say, print, broadcast, blog, text or Tweet.

We remain deeply concerned by the threat or use of violence against journalists and others whose peaceful efforts to expose human rights violations or corruption run afoul of powers that be. All too often, attacks that result in grievous injury or death are met with impunity, which feeds an atmosphere of fear and intimidation.

A disturbing number of cases of violence against journalists in the OSCE space are thought to be connected to official persons, including members of security services. We concur with the

recommendation in the Joint Declaration on Crimes against Freedom of Expression, issued on June 25, 2012, 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 ACHPR Special Rapporteur on Freedom of Expression and Access to Information. That Declaration states that when a crime against freedom of expression takes place, "the investigation should be carried out by a body that is independent from those implicated in events."

In the Russian Federation alone, 16 cases of murdered journalists remain unsolved, such as that of the prominent Dagestani journalist Khajimurad Kamalov, who was gunned down in front of his home last December 15. In April, Lukpan Akhmedyarov, a correspondent for a weekly newspaper in Oral, western Kazakhstan, known for investigating corruption and human rights abuses, was attacked by unknown assailants who stabbed him and shot him with an air pistol. While he was in the hospital recovering from the massive injuries sustained in that attack, he was charged and quickly found guilty of insulting a local official and ordered to pay the equivalent of about \$33,000.

In Belarus, Anton Surapin, an independent journalist and blog editor, was detained by the KGB for over one month for uploading photos of teddy bears holding small signs calling for free speech that had been air-dropped into the country. Following his release he faces travel restrictions. Charges against him of "complicity in a crime and assistance to illegal entry" have not been dropped. As recently as September 18, several Belarusian and international journalists were manhandled and briefly detained in Minsk while covering a peaceful public action by the opposition movement Tell The Truth that was calling for a boycott of yesterday's parliamentary elections. On the same occasion, three opposition activists were sentenced from seven to twelve days imprisonment.

We urge the Azerbaijan authorities to ensure good faith, thorough investigations into the blackmail attempt against investigative journalist Khadija Ismailova and the beating of journalist Idrak Abbasov.

On March 15, an appeals court in Uzbekistan upheld an additional five-year sentence imposed on political activist and journalist Muhammad Bekjanov for allegedly violating internal prison rules just days before his 13-year prison sentence was set to end. And we continue to have serious due process concerns about the administrative trial of independent Uzbek journalist Elena Bondar; the proceedings appeared to violate Uzbekistan's own laws and procedure involving the rights of defendants.

In Turkey, the high number of journalists imprisoned is deeply disturbing and the number of Kurdish intellectuals and political activists in jail is a chilling example of the use of anti-terror laws restricting speech on sensitive topics.

In June, Turkish classical pianist Fazil Say was charged with insulting Islam in a Tweet. His case, scheduled to go to trial October 18, illustrates both the changing modes of censorship in the digital age and the familiar dangers that ensue when the state seeks to act as an arbiter of opinion.

We also note with concern a recent lawsuit initiated by the official Hungarian News Agency against journalist György Balavany for a blog post he wrote critical of public service media. It is particularly unfortunate that the plaintiff in such a lawsuit is a media organization, as we concur with the OSCE Representative on Freedom of the Media, Dunja Mijatović, who noted that “a lawsuit for expressing critical views on the Internet can cause a chilling effect on media in Hungary.” The case is all the more troubling since a media organization is suing a journalist.

New connective technologies spread news of citizen activism and political change. People are finding innovative ways to use technology to break down the walls of fear and isolation and to speak out against societal discrimination, corruption, and restrictions on civil and political liberties that are keeping them from enjoying equal rights, dignity, and respect. Some governments also seek to use those same technologies to spy on their own citizens for the purposes of silencing dissent.

The Internet is home to every kind of speech – false, truthful, offensive, beautiful, incendiary, uplifting, trite and transformative. What we say and post and tweet has consequences. Hateful or defamatory words can inflame hostilities, deepen division, and provoke violence. New connection technologies can amplify intolerant speech, and once it is out on the web, it is impossible to retract. At the same time, the Internet also provides a space for people to debate and bridge their differences and build understanding.

We believe in freedom of expression. We do not believe it is a government’s role to determine what people can or cannot say. Governments and elected leaders in particular should lead by example and condemn hate speech whenever it occurs. We must protect freedom of expression on line and off with the force of law. We must reject the propagators of hate with the force of conscience. And we must project our voices online and off in defense of human dignity and our common humanity.

As we noted at the Dublin Conference on Internet Freedom, governments within the OSCE are restricting Internet freedom in a wide variety of ways. I will briefly cite illustrative examples: Belarus is filtering and censoring content and Russia’s new Internet law creates a blacklist of websites to be banned for supposedly illegal content, which is to be determined by an agency with no further oversight; Kazakhstan is taking down sites posting content with which the authorities disagree; Belarus and Russia are targeting independent sites with distributed denial of service attacks; Kazakhstan is perpetrating localized shutdowns of Internet and SMS messaging capabilities; Uzbekistan and Turkmenistan are trying to create so-called national Internets – national barriers in cyberspace -- that would prevent their citizens from accessing the global Internet. Russia, Tajikistan and Uzbekistan are using terms like, quote “information security” and “internet management” to try to justify restrictive Internet policies and measures. Belarus is persecuting bloggers who criticize the government, targeting social media and stealing indentifying information about their own people in order to target them for persecution.

Turkmenistan is one of the world’s most hostile countries for Internet users, with its monopoly state-run provider offering only a highly censored version of the Internet. Authorities monitor

citizens' e-mail and Internet activity, recording all online activities in internet cafes and blocking access to certain supposedly sensitive websites. In February, Gmail was blocked in the lead-up to the presidential elections. Following the munitions explosion in Abadan in 2011, the authorities detained and harassed several people who used the Internet to share information about the destruction. The Tajik government also acts as a censor, imposing restrictions on independent media without a court order, controlling access to information and closely monitoring the Internet. Often, the government shuts down websites it deems critical or threatening to the state. In late July, authorities restricted the free flow of information mandating the blocking of YouTube, reportedly shutting down communication networks in Gorno-Badakshan, and blocking domestic access to a number of news sites, including the British Broadcasting Corporation (BBC) and the independent regional news website *Asia-Plus*.

The fundamental freedom of expression that must be respected when exercised in real space also must be respected when exercised in cyberspace. The same applies to the fundamental freedoms of association, assembly and religion, which we will discuss in other Sessions here at the HDIM. Human rights and fundamental freedoms do not change with new technologies.

That is why my government and forty one other participating States are co-sponsors of the ***Fundamental Freedoms in the Digital Age*** initiative, and we urge all participating States that have not yet done so to support it as we look ahead to the Dublin Ministerial in December.