OSCE

Organization for Security and Co-operation in Europe

The Representative on Freedom of the Media

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Human Dimension Sessions of the 2010 Review Conference

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Mr. Chairman,

Excellencies,

Ladies and Gentlemen,

I am honored to address you here today, at the second special session on media freedom of the Review Conference. As I have already said in Warsaw in October, some problems that journalists face today are of highest concern for any of us working in the field of media freedom. These problems are violence, imprisonment and all forms of harassment committed against journalists for their critical writing, topics that we have already tackled in Warsaw, and topics that we will continue addressing relentlessly in the following year as well. Even in the time since the Review Conference in Warsaw until the one in Astana, I had to intervene many times in such cases.

Here today, we have the chance to draw attention to another very important aspect of media freedom and pluralism: freedom of expression on the Internet, and the digital switchover in broadcasting.

I am glad to speak as the OSCE Representative on Freedom of the Media to this distinguished and unique audience that includes so many representatives of civil society. Without civil society, our work would be impossible. It is a great responsibility for me to

head this intergovernmental media freedom monitoring office, created by the 56 participating States of the OSCE. The very fact that 56 countries have agreed to a set of commitments to uphold and foster media freedom is a remarkable achievement. It emphasizes the core values upon which the OSCE is based. It also distinguishes our Organization from other organizations and NGOs active in the human dimension.

But, as I said it many times before, the simple existence of this Office is not enough if we want to ensure better implementation of existing OSCE commitments.

Now that we are approaching the Summit, it is important to look back and assess the developments in the field of media freedom since the last Istanbul OSCE Summit of 1999.

We can state that the developments have been mixed and geographically varied.

What distinguishes media freedom developments from other fields of the Human Dimension is the enormous **technological change**, taking place virtually at the speed of light. What is known as the digital revolution has affected the media much more than any other human rights aspects the OSCE deals with.

As I said at the beginning, today's special session will address two key aspects of the development of electronic media and its implications for media freedom and pluralism: freedom of expression on the Internet, and the digital switchover in broadcasting.

Freedom of expression on the Internet

Ensuring that the Internet remains an open and public forum for freedom of opinion and expression is not a new concept in the OSCE. On many occasions I have heard some participating States' remarks that monitoring the Internet is not part of our mandate. Already in 2004 the participating States committed themselves to take action to ensure this freedom, as stated in PC Decision No. 633, endorsed by MC Decision No. 12/04 of 7

December 2004. In this document, the Permanent Council decided, among others, that participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, and to foster access to the Internet both in homes and in schools. The Decision also tasked the OSCE Representative on Freedom of the Media to continue an active role in promoting both freedom of expression and access to the Internet, and continue observing relevant developments in all participating States;

What we need today is the reaffirmation of this commitment; we need to turn the commitments into today's realities. More and more governments in the OSCE area harm media freedom by curbing the rights of those who use new (or traditional) media to present critical, controversial, or satirical views.

There is a basic connection between the development of new media and the level of freedom of expression: if the free flow of information is restricted in any forum (let it be print or electronic media, including the Internet), then the people's right to free expression and access to pluralistic information will suffer.

Allow me to introduce to you the preliminary findings of the comprehensive matrix on Internet legislation that my Office is currently working on. The preliminary report was circulated to all of you just a few hours ago, and you can also download it from my Office's website. The final matrix will build on the answers we have received and are still to receive from the OSCE governments to our survey questionnaire; I thank those of you who have already answered for taking the time and effort to provide us with these important data, and I ask the remaining participating States to send their replies as soon as they can.

The matrix will be the most comprehensive overview of Internet regulation and practice in the OSCE area. We plan to finalize and publish it in early 2011, and it will include an overview of international and national legal provisions related to freedom of the media on the Internet in the participating States. It will analyze

their efficiency and enforceability related to the global or regional levels of regulation of content available on the Internet. I am pleased that the United Nations and Council of Europe shows interest to use the same matrix to receive information from non-OSCE countries.

Over the last years, we have seen many OSCE participating States passing numerous laws aimed at addressing, among others, cyber crime, online hate speech, the protection of minors on the Internet, as well as the fight against international threats. As a result, this increased legislation of online content has led to challenging restrictions on the free flow of information and the right to freely impart and receive information on and through the Internet.

Online journalists and media are facing mounting difficulties and uncertainties when performing their duties. Law enforcement agencies at times seem equally insecure as to which measures to apply when trying to address the publishing or availability of online content perceived illegal or harmful. The fast changing medium Internet, due to its borderless nature, complexity and flexibility, seems to provoke fear and the feeling of non-manageability – and the impression that legislation designed to regulate offline media content is not adequate enough to regulate online content.

In fact, it seems that policy makers in many OSCE countries not only want to apply the same restrictions to the Internet than to traditional media, they even favour the adoption of especially restrictive laws to control a medium that is, by its nature, uncontrollable, regardless of frontiers.

When I look at the recent activities of my Office, I see that the number of legal reviews we have commissioned in the area of online media freedom has significantly sprung up. While the number of adopted international legal provisions is well defined, it is increasingly difficult to maintain an overview of the numerous national legal provisions applying to online media and national provisions related to free expression, the free flow of information and media pluralism on the Internet.

I hope that our matrix will help clarify the picture. Our aim is threefold:

- First, the matrix will provide an overview of existing international legal provisions related to free expression and the free flow of information on the Internet.

- Second, it will assess the compliance of applicable national Internet legislation and practices with existing OSCE media freedom commitments and other relevant international standards, such as Article 10 of the European Convention on Human Rights (where applicable).

- Third, with your help, we aim to establish a comprehensive data base of applicable legal provisions which not only lists respective laws but which shall serve as a basis to assess future development in the area of Internet regulation, thus also becoming a reference tool for national legislatures and a basis for promoting best practices.

In view of this special session, the circulated preliminary study focuses on the first objective mentioned before, namely the overview of existing international legal provisions. The study argues that access-blocking measures form an inadequate, inefficient and disproportionate method to combat illegal Internet content. It also raises concern about the possibility of using blocking measures or upstream filtering tools at state level to silence politically motivated speech on the Internet.

The preliminary study shows that international organizations such as the Council of Europe and the European Union have recognized the inefficiency of blocking for fighting serious crimes.

The study also warns that blocking access to any Web 2.0 based applications and services such as YouTube, WordPress, Facebook, and Twitter can be easily misused for political purposes to silence critical, satirical and provocative voices.

Of course we can not discuss Internet freedom without addressing very legitimate concerns on harmful content placed on the web, or the Internet being used to conduct

criminal activities. On many occasions I have stressed that crimes such as child pornography must be fought and prosecuted with the full vigor of the law. However, the net can not be equated to a media. It is rather a communications infrastructure, which serves different purposes, from banking to email and entertainment, but it also contains media-like content. This is what my Office looks into.

Talking about content that is perceived harmful in some societies, while within the borders of free expression in others, the report states that participating States should encourage the application of end-user based filtering software on home computers, and in schools if their use is deemed necessary, for example to protect children from harmful content. However, the deployment of state level upstream filtering systems should be avoided at all costs.

Our preliminary report concludes by calling for the OSCE participating States to respect OSCE commitments and other international human rights principles while developing their Internet content related policies and regulations. The states' response should be proportional, correspond to a "pressing social need", and be in line with the requirements of democracy with regards to content based restrictions. Internet access should be regarded as a fundamental human right, and network neutrality should not only be respected, but upheld, by the OSCE participating States.

The digital switchover in broadcasting

The second topic I address today is the ongoing switch from analogue to digital broadcasting. My Office has just published the first printed copies of "The guide on the digital switchover", in English and in Russian. The books will be distributed to all interested parties, and the electronic versions are available on our website (www.osce.org/fom).

The guide is an update of the guide published in 2009 by my distinguished predecessor, Miklós Haraszti. As the switchover is the challenge of the coming years for many OSCE

participating States, this guide aims to offer practical help to all stakeholders for the switchover process, and to find ways to strengthen media freedom in the digital age.

The book that I hold in my hand explains in simple terms a technological process that enables us to gain access to a previously unimaginable amount of information via television and radio. This development also makes it possible to impart information to others more easily than ever before. However, to what extent such technology is used to benefit people, how it can assist in creating a pluralistic electronic media and to what extent it can break down the information gap that still exists in many areas of the OSCE region very much depends on the media laws and policies governing the switch.

If carried out properly, the digital switchover can safeguard human rights, including freedom of the media and the right of access to information. If all parties involved in the process co-operate, including broadcasters, producers, resellers and consumer associations, the result is a media landscape that protects plurality of opinion and freedom of expression. Also on the digital age, OSCE governments must deliver on what they have subscribed to in the analogue world: that by providing their citizens with pluralistic information, they can only strengthen their democracies. Well-informed people make well-informed decisions, which are the indispensable foundation that democracies can build upon.

The guide is a comprehensive examination of issues to be considered by all stakeholders involved in the switchover process, including the successes and pitfalls encountered. It gives us a list of "Dos and Don'ts" of the switchover, which raises attention to the main difficulties and opportunities of the switch.

You may ask yourselves: Do these new technologies change our basic views about media freedom? Perhaps they can. Media freedom and freedom of speech in the digital age means giving everyone, not just the few people who own or control traditional tools of mass communication, the chance to use these new technologies to participate in, to interact, to build and to talk about what they want to talk about, whether it be politics,

public issues or popular culture. In other words, digitalization can give all of us the option to be part of the dialogue.

You may also ask: Why is this dialogue important? The answer is simple: because it allows people to express themselves, to influence and possibly even to change each other's minds. When people make new things out of old things, when they produce, when they create, they exercise their freedom through their participation in society.

Governments have an indispensable role in this process. Easing access to and dissemination of information leads to continuous learning; it also opens ways to closer societal bonding and a closer relationship between those who produce information and those who consume it.

Concluding remarks

To conclude my speech, let me repeat what I have already said in Warsaw. In many aspects, I agree with those who claim that media freedom is in decline across the OSCE region. However, what has been achieved since 1975 is by no means small; on a global scale it is even exceptional.

Holding ground and defending that which already has been achieved is a requirement of the moment. This Review Conference and the upcoming Summit also give us a unique opportunity to commit ourselves to move forward toward a better implementation of our core values.

What we need now is a clear-sighted understanding of the wide chilling effects of censorship and its impairment on media freedom. Knowing these effects should enable us to improve the situation in line with the commitments. I hope that our leaders will have this vision in mind during the Summit.

In Warsaw I ended my speech with words that I can not repeat often enough. Safety and the free work of journalists remain major issues that we must continuously address and fight for. It is dangerous to be a journalist these days. It is dangerous to write about corruption. It is dangerous to investigate stories. It is dangerous to be an online journalist and manage websites containing critical views. In many parts of the OSCE it is dangerous to be a monitor of our time, and it is dangerous to be a human being who speaks his or her mind freely.

The OSCE media freedom commitments oblige all participating States to provide safety and free working conditions to journalists. Countries should do so not just for the sake of justice, but also for the sake of democracy, which becomes a meaningless word without fearless fact-finding and reporting by media. I welcome the fact that safety of journalism and the development of new media will remain high on the agenda of the upcoming Lithuanian Chairmanship as well.