



Organization for Security and Co-operation in Europe
The Representative on Freedom of the Media
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Session 1:
Regulation and self-regulation of Media space

- Check against delivery –

Ladies and Gentleman, colleagues and Friends,

I feel very privileged for being given this opportunity to address you today in my role of OSCE Representative on Freedom of the Media on the occasion of the World Press Freedom Day and would therefore like to start with expressing my gratitude to UNESCO for having invited me to this important conference.

The 2011 Arab Spring has initiated some democratic transitions and paved the way to new challenges for governments and civil society in the region. Among those challenges is the question of how to best regulate the media in order to guarantee freedom of expression. Talking today in my capacity of OSCE media freedom representative, I believe that the OSCE region has in this context much experience to share as it is a region that witnessed since 1981/91 about 25 countries transforming from post-soviet societies into democracies, a process which is not yet finished.

A free and independent media is a cornerstone of a vibrant democratic society. Guaranteeing freedom of expression and free media is therefore a crucial part of any democratic transition. This process should put an end to any kind of practice aiming at muzzling critical voices or giving unfair benefits to journalists in favor of those in power. But I can also witness that defending freedom of expression is a never ending battle. Even in established democracies it remains essential to defending freedom of the media in order to avoid that freedom of expression be too easily pushed aside when it comes into conflict with other legitimate

interests. In too many countries, under the guise of fighting terrorism or protecting national security, a host of laws have been adopted hindering the free flow of information.

It is obvious that freedom of expression – though an absolute basic human right – is not without limits. The European Convention on Human Rights in its Article 10 makes it clear that some restrictions may be necessary. Some legal guarantees need to be given to media in order to prohibit censorship, to protect the confidential sources of journalists, to ensure the transparency of media ownership or ensure free access to information. However, even when its goal is to safeguard freedom of the media, any legislation can create bureaucratic obstacles or can create opportunities for abuse of the law. This is why the amount of media regulation should be kept at a minimum and all regulations should be in accordance to a clear law, in the service of a legitimate aim and truly necessary for the protection of that legitimate aim – as defined by the European Court of Human Rights.

Regulating traditional media

The print media present very few distinctive features which demand a regulatory response in contrast to the broadcast media and this explains why few democratic countries do not have print media laws. Print media outlets should for instance not be subject to special legal requirements to register or obtain a license.

In contrast to the ‘hands off’ approach most suited to the print media, an effective broadcasting system which serves the public interest can not survive without official regulation. Despite a digitalization process which increases the number of broadcast frequencies, the available spectrum should be distributed in a way that allows pluralism meaning all opinions and voices to be heard. A state in which only a privileged few can effectively express their opinions can not be considered a free society. For this reason, international standards require that laws be adopted to establish transparent rules for application for a broadcast license. A politically independent body should in parallel be created to supervise the application of the law.

Also, many countries around the world have established public service broadcaster in order to better guarantee pluralism and ensure the production of programs in areas that are unprofitable and therefore ignored by private channels. Their role is also to become a credible platform of balanced and accessible news to promote the general public’s right to know. A

key challenge is to ensure the political and financial independence of those broadcasters from those in power. And this can only be done through media regulation.

Internet freedom

The picture of how to regulate media would not be complete if I did not talk about the Internet and new media. Their role in starting the democratic transition during the Arab spring can not be ignored and has proved that the Internet has indeed become more and more an indispensable tool for all citizens to receive, seek and impart information. Another major change that the internet introduced is that journalists do not have anymore the monopoly on using technologies and spread information. That role also belongs now to bloggers, Facebook activists and social media activists mathematically increasing the number of critical voices to those in power.

This new and ever growing cyberspace creates fears from the side of governments and explains why more and more countries are tempted with the idea of over-regulating the Internet. And it is no surprise that more and more bloggers, Facebook activists, and social media activists are being put behind bars because of their words.

My Office is actively working with other organizations to collectively raise our voice in favour of a free and safe Internet. Our opinion is that specific regulation applying to online media is not necessary because already existing generic provisions establishing liability for crimes or offences - such as incitement to violence or child pornography - can be applied to Internet content. Mandatory filtering and online blocking are considered to be over-restrictive and may only happen upon court decision guaranteeing the strict observance of freedom of expression principles. Instead of trying to restrict the Internet, democratic governments should rather implement a legislation that guarantees the free flow of information and needs to make sure that the Internet remains an open and public forum.

Self-regulation

In that process, governments must accept that a free media landscape will not only be accompanied with the blooming of quality media. All democracies have a market for the 'yellow' press. However, this kind of media should be seen as a source of entertainment

rather than a reliable source of information. And this is why; I believe that the threat posed by this kind of information is too minor to justify any restriction of free speech.

However, even media that are considered to be a reliable source of information is not protected from unprofessional and sensationalist reporting. It is my belief that there is no better mechanism than media self-regulation to address those issues. There is no one-fit-all model of a functioning self-regulatory mechanism but provided a code of ethics and complaint mechanisms is established voluntarily by journalists themselves and financially independent from the government, this system demonstrates that state interventions are not necessary.