



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

June 21, 2007

Regular Report to the Permanent Council

Mr Chairman, Excellencies, Ladies and Gentlemen

This is my second report to the Permanent Council in 2007. Since the March 2007 report my Office has witnessed a number of positive developments and these are reported below. Unfortunately, in the same period, the situation in some countries has deteriorated significantly, despite a number of interventions by my Office.

This report provides details of issues raised with participating States since March 2007 and reviews our co-operation on recent and planned project activities. It also presents a new Special Report on the handling of the media during political demonstrations.

Issues raised with Participating States

Albania

In close co-operation with my Office, the OSCE Presence in Albania reminded the National Council on Radio and Television (NCRT) that the implementation of a frequency plan for broadcasting should be handled in the least intrusive fashion, in order not to jeopardize media pluralism.

NCRT had earlier shut down some transmitters, which were using illegally occupied frequencies, but without presenting a blueprint for the re-allocation of frequencies.

My Office also provided a non-paper commenting on the new draft law on digital broadcasting. The law, adopted by Parliament on 28 May, incorporates my Office's comments.

Azerbaijan

I am particularly alarmed about the continuous harassment of independent media and journalists by the authorities in Azerbaijan. In recent months, a wave of imprisonments and violence against journalists has reached a critical point.

Over twenty independent journalists recently turned to foreign embassies in Baku asking for political asylum, some of whom went on a hunger-strike to protest against the situation.

Currently, there are seven media professionals in prison for ‘defamation’ or ‘incitement’, all of them from non-government outlets. Their only "wrongdoing" was criticism of officials or questioning of conventional wisdom. Most of them are held on charges filed by public officials. The journalists are:

- Mirza Zahit Zahidov (*Azadliq*)
- Faramez Novruzoglu (*Nota Bene*)
- Eynulla Fatullayev (*Realnyi Azerbaijan*)
- Rafiq Tagi and Samir Sadegetoglu (*Senet*)
- Rovshan Kebirli and Yashar Agazadeh (*Muxalifet*)

When I met President Aliyev in April, I brought to his attention the fact that the lack of government action against the criminalization of journalists may unleash violence against them, as happened in 2005 when journalist Elmar Husseynov was killed after he being indicted in numerous cases. The latest example of this chilling sequence was the brutal attack on reporter Uzeyir Jafarov, shortly after his editor, Eynulla Fatullayev, was sentenced to prison in April.

Beside the harsh imprisonment sanctions, the two largest independent newspapers *Realnyi Azerbaijan* and *Gundalik Azarbaycan* ceased to exist after they were evicted from their premises by the Ministry of the Emergency Situations on 20 May.

On 25 May, the Supreme Court denied the appeal of *Azadliq*, the biggest oppositional newspaper, the Turan news agency, and the Institute for Reporter Freedom and Safety, against their eviction from their premises in November 2006.

On April 27, I greeted the long-awaited re-licensing of ANS Television Company as a positive development.

At the same time, I remain concerned about the general situation for the media and I urge the authorities to decriminalize defamation; to bring to justice all those who assault and murder journalists; to release all those media professionals who are currently serving prison sentences for their work and to end the persecution of the remaining independent media in the country.

Bulgaria

On 22 March, I advised Parliament against introducing amendments to the Access to Public Information Act, which would make access to information both more difficult and more expensive. I was glad to hear that the initially proposed amendments were considerably changed in a positive way.

Modern democracies should facilitate non-bureaucratic access to information, which is a prerequisite for the media's professional coverage of government. Bulgaria does possess such a regime now; therefore, I hope that the implementation of the new law will not retreat from its advanced information access system.

In my letter dated 1 June to the Foreign Minister, I asked for more information about the results of the investigation into the case of photojournalist Emil Ivanov, who complained of being assaulted by police officers in the course of his work.

France

In my letter of 12 June to the Minister of Justice, I recalled the commitment of her predecessor to include the protection of journalists' confidential sources in the Press Law of 1881, which was also a promise made by Mr. Sarkozy during the recent presidential campaign.

Recent cases of investigations into *L'Equipe* in May 2006, *Midi Libre* in November 2006 and the attempt to search the *Canard Enchainé* offices in May 2007 all aimed at disclosing journalists' sources and accentuate the need to guarantee the confidentiality of media sources in France.

Ireland

On 29 March, the Irish Supreme Court approved a High Court decision allowing the *Sunday Business Post* and other media to publish material circulated by the Mahon Tribunal prior to a public hearing, but marked as confidential. The Supreme Court dismissed the tribunal's request to prevent the publication.

I view the decision of the Supreme Court as a sign of commitment to freedom of expression.

Kazakhstan

On 24 May, the TV channel *KTK* and the weekly newspaper *Karavan* were suspended, each for three months, following a court ruling in Almaty which cited Article 159 of the Civil Procedural Code. However, an earlier intervention by the Almaty Prosecutor's Office on 22 May demanded that *Karavan* and *KTK TV*, refrain from showing 'unauthorised coverage' of an ongoing criminal investigation at Nurbank.

On 6 June, an official of the presidential administration was appointed General Manager of *KTK TV*, following which news programmes have ceased to be aired. Following an Almaty district court decision, the decision to suspend *Karavan* was reversed, and the newspaper is now publishing, but on the condition that it does not publish any information about events concerning Nurbank. Additionally, the chief editor has been removed from his position.

Against the backdrop of recent events in Kazakhstan involving the family of the President, it is clear that the closure of these media outlets was politically motivated. By issuing an arbitrary order regarding news content, the prosecutor has participated in an act of State interference into the media.

My Office will continue to monitor the implications for the media in the country.

I welcome the decision of the Kazakh authorities to abandon a restrictive draft law on publishing, and the withdrawal of draft legislation in April that proposed to increase the penalties for insult. I look forward to the future parliamentary debate on a new draft media law that has been proposed by a group of NGOs.

Kyrgyzstan

In my letter of 20 April to the Foreign Minister, I raised my concern over the decision by the Prosecutor General to issue a confiscation warrant against four independent newspapers following political demonstrations in Bishkek. In addition to the print run, the authorities confiscated printing plates and electronic files.

Set against a background where journalists reported being beaten and having their equipment damaged while covering demonstrations, I consider this to be an act of censorship. In my letter I asked the Minister to do everything possible to allow journalists to continue to report on political events without fear of interference by law-enforcement officials.

FYR Macedonia

In a letter dated 6 June 2006 to the Foreign Minister I asked for additional information on a reported abduction on 2 June of the Deputy Director of the Macedonian Radio Television (MRT), Nazif Bushi, who was held for several hours by unknown gunmen without explanation, along with two other journalists and their driver.

Russian Federation

In my letter to the Russian authorities dated 17 April, I raised my concern over the treatment of journalists at recent demonstrations in Nizhny Novgorod, St Petersburg and Moscow. Media workers have reported being beaten and detained alongside political demonstrators.

In my letter, I stated that although the locations for the demonstrations were not sanctioned by the authorities, it remains the responsibility of journalists to cover events of a national political nature, and that the media should be protected, rather than hindered, when doing their job.

In a reply from the authorities dated 7 May, a statement from the Press Office of the Ministry of the Interior pledged to improve the handling of journalists during similar events in the future. In a letter to my Office on 7 June 2007, it is stated that as none of the detained journalists have filed official complaints to the police, further investigations cannot be opened. Regrettably then, it appears that Russian law-enforcers will not be held accountable for any acts of violence against journalists during the recent political demonstrations.

A Special Report dedicated to demonstration coverage issues in the OSCE area is attached to this report.

In a reply dated 30 April regarding my interventions in cases of murdered Russian journalists, the Russian authorities informed my Office of the status of the investigation into the murder of seven Russian journalists. In three cases, sentences have been passed, in three more investigations are underway in Russia and in one case the handling of the investigation has been passed to the Moldovan authorities. I welcome the receipt of this information.

Investigations continue into the murder of Paul Klebnikov, Anna Politkovskaya and Ivan Safronov, and I look forward to receiving a similar update on the progress of these investigations in due course.

In my letter to the Russian authorities dated 19 June, I signalled my concern about a civil libel case brought by President Ramzan Kadirov of Chechnya against the Russian newspaper *Kommersant* in June

2006 because of an opinion piece written by a North Ossetian parliamentarian and published by *Kommersant*.

In my letter, I referred to the position of the European Court of Human Rights which holds that public officials, compared to ordinary citizens, should be more restricted to sue for personality damages, and have to endure harsher criticism. The rationale for this standard is to keep the democratic discussion of public issues ongoing and fearless.

The procedure followed in this case, especially the steep increase in moral damages awarded to President Kadirov on appeal, are contrary to these principles, and conducive to a self-censorship in public discussion.

In my letter I also expressed my regret that attacks on Russian journalists continue, referring to three recent incidents where media professionals have been subjected to violence, reportedly in connection with their work:

- On 15 June, Andrei Kalitin, an investigative reporter with the Russian national television channel ORT, was shot in the shoulder in Moscow.
- On 15 June, Vadim Guzinin, a journalist with the information agency PIA RIM, was a victim of an armed attack in Pskov.
- On 16 June, Mikhail Afanasiev, chief editor of the online journal *Novy Fokus* and recipient of the Sakharov Prize for journalism in 2004, was kicked and beaten unconscious.

I asked the Russian authorities to take whatever action is necessary to send a strong signal that such attacks on journalists are unacceptable in a democratic society. Sending such signals is as important as bringing the perpetrators to justice.

Serbia

In a public statement released on 16 April, I joined the OSCE Mission to Serbia in condemning the 14 April attack against the prominent Serbian journalist Dejan Anastasijevic. A hand grenade exploded outside his Belgrade apartment, shattering the windows but leaving the journalist and his wife unharmed.

I hope that the Serbian law enforcers will quickly find the perpetrators of this crime. It is crucial for any democracy that the police and the judiciary remain responsive to such manifestations of aggression against media workers.

Switzerland

In Switzerland, three journalists of the weekly *Sonntagsblick* were acquitted by a military tribunal on 17 April of having inflicted damage to the defence capabilities of the Swiss Army. I welcome this specific verdict. However, I recall that in my letters to the Swiss Ministers of Justice and Defence of 18 January, I invited the Swiss government to modernize the civil and military penal code by introducing the public interest as a factor for judges to consider when deciding on the publication of classified information. A respective parliamentary motion is pending.

Turkey

On 13 April police forces raided the premises of Turkish magazine *Nokta*, following an article published on 29 March which revealed an alleged plan for a coup d'état by senior military officers in 2004. Police officers remained in the magazine's offices until 16 April. Shortly after, the owner of the magazine decided to stop its publication.

Criminal cases were opened against the magazine's chief editor based on libel and insult provisions. Two journalists who covered the case were also indicted under Article 301, for 'publicly denigrating the military.' All are facing multi-year prison sentences.

In a letter to the Turkish authorities on 11 June I reiterated the need to abolish Article 301 and other criminal provisions that hinder open public debates.

I will also be monitoring the implications of Law No. 5651 "On the preparation of Internet publications and crimes connected with these publications", ratified by the President on 22 May. Under the new law, it will be a punishable offence to provide web space to internet publications "insulting the memory of Atatürk", the founder of the Turkish Republic.

Ukraine

In my letter of 28 March, addressed to the Foreign Minister, I asked for additional information about the closure of the political talk-show *Toloka* by the President of the First National Channel *UT-1*.

I was glad to receive a timely answer regarding *Toloka* on 19 June, in which the authorities shared with my Office the results of the ongoing inquiry. I welcome the readiness of the authorities to continue a dialogue with my Office on strengthening media freedom in Ukraine.

The United States of America

I welcomed the release of Joshua Wolf from jail on 3 April. Wolf, a blogger from California, was jailed by a Federal district court on 1 August 2006 for refusing to turn over a collection of videotapes he recorded during a July 2005 demonstration in San Francisco. He posted the unpublished footage on his blog on 3 April after being assured that he would not have to testify about the footage.

This event again demonstrated the need for a federal shield law in the country. I welcome the re-introduction of the Free Flow of Information Act into Congress on 2 May. This Act aims to protect journalists from being forced to disclose their sources at the federal level, as is the current practice in most states. I encourage swift action by Congress in adopting the Act.

Uzbekistan

On 28 March in my letter to the authorities of Uzbekistan, I requested further information about the charges brought against Natalya Bushuyeva on 23 March under article 184 of the Criminal Code 'Concealment of Income and Non-Payment of Taxes'. Ms Bushuyeva had been working as a stringer for *Deutsche Welle*, which lost its accreditation in 2006 following the adoption of a set of provisions regulating the professional activities of foreign correspondents.

In my public statement of 2 May, I expressed my regret at the seven years sentence passed on Uzbek journalist Umida Niyazova. Ms Niyazova was sentenced on 1 May on three counts, including 'production and distribution of materials containing a threat against public safety or public order'. By the time of sentencing Ms Niyazova had already served more than three months in detention. On appeal, the sentence was commuted to a three year suspended sentence, conditional on a guilty plea.

In a similar case in Uzbekistan, the six year sentence passed on Gulbakor Turaeva in May on charges of anti-government activity was commuted to a three year suspended sentence on appeal on 12 June, on the condition that Ms Turaeva denounced human rights workers and journalists in Uzbekistan.

While I welcome the release of both Ms Niyazova and Ms Turaeva, the fact that both were granted their freedom in exchange for denouncing their work with international organizations, human rights workers and international journalists, is unacceptable in an OSCE participating State.

Regrettably, a shipment of OSCE/RFoM books sent to the Project Co-ordinator's Office in May 2006 remains held up in customs in Tashkent. Customs officials informed the OSCE that the content of the publication - the concluding publication from the 2005 Central Asia Media Conference - violated Uzbek

regulation of content and requested that payment be made to return the shipment to Vienna. In my letter to the authorities of 18 May I asked again for assistance to resolve this matter.

Handling of the Media during Political Demonstrations: Special Report

I am pleased to present the third in a series of Special Reports that seeks to clarify problematic aspects of the administrative framework in which the media operates in the OSCE area. The first two reports focused on the function of journalists' accreditation and issues related to registration of the print media.

The third Special Report on the *Handling of the Media during Political Demonstrations* addresses the issues that have been raised by governments and journalists in recent months and offers some recommendations to improve the possibilities for journalists to cover public events safely.

The report is attached as an attachment to this report and is available for download in Russian and English at the following address:

http://www.osce.org/documents/rfm/2007/06/25176_en.pdf (English)

http://www.osce.org/documents/rfm/2007/06/25176_ru.pdf (Russian)

A future Special Report will address the administrative framework for printing, publishing and distribution of the print press within the OSCE area.

Access to Information Survey

On 2 May in Brussels, **Belgium** on the occasion of World Press Freedom Day, I announced the results of the survey on media access to information in the 56 OSCE participating States. I would like to thank the 2006 Belgian Chairmanship for supporting this pioneering project; I am also grateful to those Governments which provided information for analysis, as well as the OSCE field operations and NGOs which helped gather data for the survey.

Although some data is yet to be provided, the survey has allowed my Office to analyse the major trends and deficiencies, and to offer recommendations for the consideration of the participating States.

The survey covered freedom of information laws; classification rules; punitive laws on breach of secrecy and the protection of journalists' confidential sources.

Summary of findings

- The general public in the participating States have more access to information than ever before, but weak laws and prosecution against the media diminish journalists' investigative abilities.
- In the past ten years, most OSCE nations have passed good basic laws to balance the rights of the public to know with government classification needs. However, in most countries this balance is upset when it comes to journalists' daily struggle with secrecy.
- Freedom of information laws are in vigour in 80 per cent of the OSCE participating States, including 'old democracies' such as **Germany, Switzerland** and the **UK**, and 'new democracies' such as **Armenia, Azerbaijan** and **Kyrgyzstan**.
- Against the backdrop of the Helsinki principle of the free flow of information, the survey reveals that most governments define State secrets too broadly and thereby hide too much information that is important for society.
- In at least 29 OSCE participating States the criminalization of "breach of secrecy" is not limited to those who have a duty to protect the secrets but mechanically extends to each and every citizen who played a role in passing on or publishing classified data. The survey lists dozens of cases when journalists have been prosecuted for handling confidential data.
- Almost all OSCE nations recognize in law the importance of the protection of journalists' confidential sources but less than half offer adequate protection from coercion by the judiciary to disclose sources. Prosecutorial methods include "contempt of court" charges in the **United States**, which result in imprisonment, and raids on editorial premises and wiretapping journalists' communications in Europe.

The survey is being continuously updated as new responses from participating States arrive. At the time of writing we have collected data on 53 participating States.

The summary of the findings of the survey are available to download at:

<http://www.osce.org/item/24250.html>

Country reports are available to download at:

<http://www.osce.org/item/24251.html>.

Projects & Activities since the last report

Visit to Belarus

On 4-5 June my Office, in cooperation with the OSCE Office in Minsk and the Ministry of Foreign Affairs of **Belarus**, organised a training course for approximately 30 journalists and government press secretaries in Belarus. During my visit, I met the Deputy Foreign Minister; the Deputy Minister of Information; the Chairman of Parliamentary Committee on Human Rights, Ethnic Relations and the Media; chief editors of non-State newspapers and the Belarusian Association of Journalists (BAJ).

In my public statement of 4 June, I noted that the actual situation of the independent media has not improved since my last visit in 2005. The independent media continues to work against hardships of administrative restrictions, arbitrary registration regime, discriminatory distribution and subscription services, and politically guided printing and advertisement markets.

During my visit, I provided the authorities with a review of the draft law 'On Information, Informatization, and Protection of Information'. I greeted the fact that Parliament invited BAJ to comment on this law. I hope that these discussions will lead to a less restrictive legal environment for the media.

Update on the decriminalization of defamation

Progress continues to be made in the OSCE area in the sphere of decriminalization of defamation.

In **Albania**, I have observed with satisfaction the reinvigorated efforts to decriminalize defamation. On 3 May, the Prime Minister declared that the Government plans to approve a bill on amending the Criminal Code and the Civil Code aimed at decriminalizing libel and insult. On 4 May, the Council of Ministers approved the bill and sent it to the Assembly of Albania for consideration.

This Government-sponsored bill is a project initiated and advocated by civil society groups and the amendments have been supported by the OSCE Presence in Albania and my Office throughout.

In **Kazakhstan** on 13 April, the parliament rejected amendments to the Criminal Code that had been introduced by the government. The amendments envisaged, *inter alia*, stronger criminal punishment for libel against candidates for presidency, members of parliament, and regional and district 'akims' (heads of administration) during election campaigns.

I recommend Kazakhstan's legislators to enact into law current NGO proposals to fully decriminalise libel and insult.

Regrettably, I am obliged to report negative developments in the decriminalisation of libel in **Kyrgyzstan**. As stated in my former report to the Permanent Council, a set of amendments to remove libel and insult from the Criminal Code were accepted by the Jogorku Kenesh during the first reading.

However, I have now been informed that following a heated parliamentary debate, these amendments were recalled in a subsequent reading. Regrettably, libel and insult remain criminal offences in Kyrgyzstan.

I urge the authorities of Kyrgyzstan to reconsider this decision and to take all possible measures to decriminalise libel and insult and thereby set a positive example in the region.

Self-regulation

My Office continues to promote self-regulation in the OSCE area and the development of a practical handbook on this topic is currently underway. I would like to thank **France, Germany, Ireland** and the **United Kingdom** for their generous extra-budgetary contributions to the project. A discussion of the content of the handbook will be a central feature of the 2007 regional media conferences, planned for autumn 2007.

On 8-9 June, my Office participated in an international workshop, organized by the Budapest Centre for Independent Journalism in **Hungary**, on the topic of patterns and models of media self-regulation in Europe. The workshop focused on creating a code of ethics and a press council for Hungary.

Legal Reviews

On 23-24 April, my Office in cooperation with the OSCE Mission to Moldova organised the first of three planned seminars on defamation law for judges.

My Office reviewed the draft Law on Data Secrecy in **Croatia**. It was forwarded to the Croatian authorities in April.

My Office reviewed the **Belarusian** draft law on Information, Informatisation and Protection of Information (see section *Visit to Belarus*).

http://www.osce.org/documents/rfm/2007/06/25078_en.pdf

Internet

On 2 May, my Office delivered a presentation at the Computers, Freedom and Privacy Conference in Montréal, **Canada**. The presentation focused on Internet content regulation in Europe and the RFOM project “Internet Governance in the OSCE Region”.

On 23 May, during open consultations in Geneva, **Switzerland**, within the UN-led preparation of the 2007 Internet Governance Forum (IGF), my Office contributed to a position paper by the ‘Dynamic Coalition on Freedom of the Media and Freedom of Expression Online’.

Participation in OSCE and external events

On 19-22 April, I attended the Eurasia Media Forum in Almaty, **Kazakhstan**, and participated in a panel dedicated to Media Law and Freedom in the Post-Soviet Republics.

On 26-28 April, I moderated a panel at an international conference organised by the Organization of Islamic Conference in Baku, **Azerbaijan**, on the ‘Role of the Media in the Development of Tolerance and Mutual Understanding’. During my visit, I met President Aliyev for an open discussion regarding the grave media situation.

On 26-27 April, my Office participated in a conference dedicated to the role of media in conflict prevention, hosted by *Deutsche Welle* in Bonn, **Germany**.

On 2 May I participated as a keynote speaker in an event at the European Parliament, organized by the European Federation of Magazine Publishers. The new EU Audiovisual Media Services Directive and the situation of press freedom in the EU and the OSCE region were discussed.

On 3 May, I participated in a debate organized by UNESCO-**UK**, on the topic of the state of world media freedom.

On 12-15 May, I participated in the 56th General Assembly of the International Press Institute in Istanbul, **Turkey**. I addressed the topic of “Reporting in a World Where We are All Others”.

On 27-30 May I gave the keynote speech at the Congress of the International Federation of Journalists in Moscow, **Russia**. I focused on the link between the criminal punishment of journalistic activities and

violence against journalists, and highlighted the problem of impunity before the law of those who murder journalists for their work. The text of my keynote speech is available at

http://www.osce.org/documents/rfm/2007/06/24811_en.pdf

On 7-8 June during the OSCE Conference on Combating Discrimination and Promoting Mutual Respect and Understanding in Bucharest, **Romania**, I moderated the plenary session on “Addressing racist, xenophobic and discriminatory public discourse spread through, *inter alia*, the media, internet, satellite TV and textbooks, while respecting freedom of expression”.

On 13-14 June, my Office participated at the Hambacher Fest in **Germany**. During the event, my Office gave a presentation on press freedom in the OSCE region and conducted a workshop for young journalists on media freedom.

On 14 June, I participated in a roundtable of Samizdat 'Forschungstelle Osteuropa' at the University of Bremen. The occasion to discuss the situation for the free press, past and present, was the 25th anniversary of the establishment of the organisation in 1982.

Project activities confirmed for the next period

Annual Regional Media Conference

I am pleased to announce that the next South Caucasus Regional Media Conference will take place in Tbilisi, **Georgia** on **11-12 October**. The Central Asia Regional Media Conference will be held in Dushanbe, **Tajikistan** on **1-2 November**. The focus of these conferences this year will be on media self-regulation.

My Office is preparing both events in close cooperation with the OSCE Mission to Georgia and the OSCE Centre in Tajikistan. I would like to express my gratitude to participating States who have already pledged funding for these important projects and would like to encourage other participating States to consider pledging donations. In order to complete the funding, we are seeking an additional 30,000 Euro.

Joint Journalists' and Press Officers' Training

In addition to the successful training courses run in **Azerbaijan, Belarus, Kazakhstan** and **Ukraine** in 2006/7, new and follow-up training courses are planned in *inter alia* **Armenia, Georgia, Tajikistan** and **Ukraine** before the end of 2007.



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

21 June 2007

Special Report

Handling of the media during political demonstrations

Observations and Recommendations

This Special Report is the third in a series issued by the Office of the OSCE Representative on Freedom of the Media that seeks to offer clarification about problematic aspects and best practices of the framework for the media in the OSCE area.

The first two reports, issued in October 2006 and March 2007, examined the function of journalists' accreditation and the issue of registration of the print media.

This Special Report examines the treatment of journalists by law enforcement officials during political demonstrations.

There have been a number of instances recently where journalists have received particularly harsh treatment at the hands of law-enforcers while covering public demonstrations. This has highlighted the need to clarify the *modus operandi* of both law-enforcement agencies and journalists at all public events, in order that the media is able to provide coverage without hindrance.

The OSCE participating States have committed to freedom of expression and freedom of assembly and have guaranteed to create the conditions whereby journalists are able to work without legal or administrative obstacles¹. Particularly, they “condemn all attacks on and harassment of journalists and will endeavour to hold those directly responsible for such attacks and harassment accountable.”² In addition, the ODIHR *Guidelines on Freedom of Peaceful Assembly* clarifies the role of the media.³

Recent conflicts in connection with public demonstrations touch on both freedom of expression issues and those related to freedom of assembly. But safe reporting on demonstrations is demanded not only by freedom of the media and free flow of information principles: uninhibited reporting on demonstrations is as much a part of the right to free assembly as the demonstrations are themselves the exercise of the right to free speech.

Both law-enforcers and journalists have special responsibilities at a public demonstration. Law-enforcers are responsible for ensuring that citizens can exercise their right to peaceful assembly, for protecting the rights of journalists to cover the event regardless of its legal status, and for curbing the spread of violence

¹ Copenhagen Meeting Of The Conference On The Human Dimension Of The CSCE (June 1990) (7.8)

² Towards a Genuine Partnership in a new era (CSCE Summit, Budapest) Chapter VIII, Human Dimension Tolerance and non-discrimination.

³ “Journalists have an important role to play in providing independent coverage of public assemblies. As such, they must be distinguished from participants and be given as much access as possible by the authorities.” Section A ‘Implementing legislation on Freedom of Peaceful Assembly’ (9) p17.

by peaceful means. Journalists carry the responsibility to be clearly identified as such, to report without taking measures to inflame the situation, and should not become involved in the demonstration itself.

This report examines some of the issues that have become a recurring problem in the OSCE area and proposes recommendations to improve the handling of the press in similar circumstances in the future.

Responsibilities of the authorities and law enforcement agencies

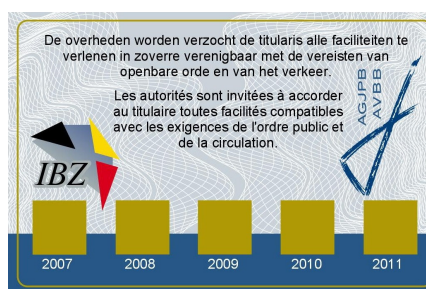
Law-enforcers have a constitutional responsibility not to prevent or obstruct the work of journalists during public demonstrations, and journalists have a right to expect fair and restrained treatment by the police. This flows from the role of law-enforcers as the guarantor of public order, including the right to free flow of information, and their responsibility for ensuring the right to freedom of assembly.

There are of course practical considerations. The police have to distinguish between journalists and demonstrators at a time when the emotions of large crowds are running high. Therefore, there needs to be a mechanism whereby the police can quickly assess who should have access.

The solution found in **Belgium** is linked to the National Press Card. According to the Law of 30 December 1963, journalists recognised by the national union are issued with a press card, which gives the journalists maximum access to any public space, including demonstrations. On the back of the press card, it is stated: "The authorities are requested to give the owner of this card all facilities in as far as they are compatible with the needs of public order and traffic."



Belgium Press Card (front)



Belgium Press Card (back)

On presentation of the card, journalists can expect to be granted access to the demonstration area in order to cover the event.

However, even on presentation of their credentials, this right of access is not always given to journalists. Disregard for the role of both journalists and law-enforcers at the time of a demonstration has led to overzealous policing and resulted in physical attacks on journalists. For example, this year:

- During the so-called “Marches of the Discontented”, organized by an opposition alliance on 3 March 2007 in St. Petersburg, on 24 March in Nizhny Novgorod, and on 15 April in Moscow, **Russia**, the media reported that several Russian and foreign journalists were detained or beaten in each instance, despite some of them wearing a bright jacket identifying them as journalists.
- On 12-14 April, four cases of journalists being beaten during demonstrations in Bishkek, **Kyrgyzstan** were recorded in a joint statement by four leading media NGOs in Kyrgyzstan.
- On 28 April in Tallinn, **Estonia**, two Russian journalists covering demonstrations against the transfer of a war memorial reported that police beat them about the head with police batons when they resisted seizure of their reporting equipment.

- On 1 May in Istanbul, **Turkey**, journalist groups reported the use of tear gas and other forms of violence by law-enforcers to restrain demonstrators and journalists.
- On 2 May in Los Angeles, **USA**, officers from the Los Angeles Police Department beat several TV journalists with batons during an immigrants' rally.

Examples from earlier years:

- On 2 March 2006 in Minsk, **Belarus**, in the run-up to the presidential elections, domestic and foreign journalists seeking to cover the detention of an opposition candidate, were beaten and detained by riot police; some of them were hospitalized with minor injuries and police also confiscated their cameras.
- On 11 October and 26 November 2005 in Baku, **Azerbaijan**, dozens of journalists fell victim to police assaults during demonstrations. The journalists were wearing bright jackets identifying them as members of the press.

In a letter to the Office of RFoM from the Russian authorities dated 7 June 2007, it is stated that as none of the journalists detained during recent demonstrations have filed official complaints to the police, further investigations cannot be opened. Regrettably then, it appears that Russian law-enforcers will not be held accountable for any acts of violence against journalists during the recent political demonstrations.

A statement made in April by the Press Office of the Russian Ministry of the Interior pledges to improve the police handling of journalists during such events in the future.

“Unsanctioned” Demonstrations

International standards commit States not to place any restrictions “on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.”⁴

So while the very notion of an ‘**unsanctioned demonstration**’ is sometimes viewed as an anomaly, there are legitimate reasons that the authorities can refuse the use of certain locations, either on the grounds of security or disruption to public transport.

However, the very fact that a mass demonstration takes place - whether it be sanctioned or unsanctioned - is certainly newsworthy, is of public interest and therefore, journalists should be protected by the same rights as if they were covering any other public event.

In responding to their treatment of journalists during these public events, governments have sometimes tried to explain away a disproportionate reaction of law-enforcers against journalists and demonstrators by citing the ‘unsanctioned’ nature of the demonstration.

For example, in a recent public statement by the Director of the Department for Public Relations of the Russian Ministry of Interior, commenting on the conduct of the police during demonstrations in Moscow, St Petersburg and Nizhny Novgorod, he referred to the *unauthorised* nature of the wave of recent demonstrations.⁵

⁴ International Covenant on Civil and Political Rights, article 21. See also ECHR, Article 11 ‘Freedom of assembly and association’.

⁵ Press briefing by the Head of Public Relations of the Ministry of Internal Affairs, 21 April 2007.

The media is impartial to the circumstances under which an event takes place, be it planned or spontaneous. Simply, it is their duty as media professionals to provide coverage and should be afforded the same privileges by the police as if the demonstration were 'sanctioned'.

1. Law-enforcement officials have a constitutional responsibility not to prevent or obstruct the work of journalists during public demonstrations. Journalists have a right to expect fair and restrained treatment by the police.

2. Senior officials responsible for police conduct have a duty to ensure that officers are adequately trained about the role and function of journalists and particularly their role during a demonstration. In the event of an over-reaction from the police, the issue of police behaviour vis-à-vis journalists should be dealt with separately, regardless of whether the demonstration was sanctioned or not. A swift and adequate response from senior police officials is necessary to ensure that such an over-reaction is not repeated in the future and should send a strong signal that such behaviour will not be tolerated.

Accreditation to cover political demonstrations

The issue of journalists' accreditation for public demonstrations has also been raised recently, particularly in the context of unsanctioned demonstrations⁶. The RFoM Special Report on "Accreditation for Journalists in the OSCE area" clarifies the conditions under which it is necessary for journalists to obtain accreditation:

"The accreditation system was designed to allow journalists access to specific venues with limited space as well as access to certain 'closed zones', including war zones and places deemed dangerous, or sealed off by the authorities for safety reasons. It also allows journalists to participate in official events and visits."⁷

Accreditation is required therefore only when access is necessarily restricted, such as access to the press gallery in a parliament building. In a public place, such as a town square, space is not limited and therefore there is no requirement for special accreditation.

⁶ Ibid

⁷ http://www.osce.org/documents/rfm/2006/10/21826_en.pdf

3. There is no need for special accreditation to cover demonstrations except under circumstances where resources, such as time and space at certain events, are limited. Journalists who decide to cover ‘unsanctioned demonstrations’ should be afforded the same respect and protection by the police as those afforded to them during other public events.

Respect for printed material and equipment

Naturally, the personal equipment of journalists should be respected at all times. Confiscation of the tools of their trade, such as cameras or recording equipment is a criminal offence and is rather like switching off the microphone of the main speaker of a sanctioned demonstration. If police break or smash equipment deliberately, this should be considered a criminal offence and those responsible should be held accountable.

The Office of RFoM has also recorded a number of cases where printed material has been directly confiscated by the authorities immediately prior to a mass demonstration. For example:

- In Bishkek, **Kyrgyzstan**, on 11 April, in accordance with a confiscation warrant from the Prosecutor’s Office, the latest editions of four main opposition newspapers were seized, as well as printing plates and electronic files.
- In Samara, **Russia** on 11 May, one week prior to the ‘March of the Discontented’ demonstration planned for 18 May, media groups reported a police raid on the local bureau of the independent newspaper *Novaya Gazeta*, during which computers and financial records were seized. At least two other large seizures of the opposition newspaper ‘March of the Discontented’ reportedly took place prior to similar demonstrations on 20 March and 30 April in Nizhny Novgorod and St Petersburg.

4. Wilful attempts to confiscate, damage or break journalists’ equipment in an attempt to silence reporting is a criminal offence and those responsible should be held accountable under the law. Confiscation by the authorities of printed material, footage, sound clips or other reportage is an act of direct censorship and as such is a practice prohibited by international standards. The role, function, responsibilities and rights of the media should be integral to the training curriculum for law-enforcers whose duties include crowd management.

Responsibilities of journalists

The ODIHR *Guidelines on Peaceful Assembly* summarise the responsibilities of journalists:

“Journalists have an important role to play in providing independent coverage of public assemblies. As such, they must be distinguished from participants and be given as much access as possible by the authorities. In order to avoid confusion and facilitate such access, it may be necessary to require journalists and other media personnel to be clearly identifiable, by wearing for instance fluorescent bibs.”⁸

⁸ Section B Human Rights Monitors, Media and Other stakeholders, (168, p 75)

This photograph shows one mechanism by which a journalist can identify themselves. The jacket allows journalists to distinguish him/herself from other demonstrators and allows law-enforcement agencies to respond adequately to journalists' requests. The Russian-based "Centre for Journalists in Extreme Situations" distributes such jackets to journalists in Russia. When journalists are clearly identified, the likelihood that they will be caught up in the actual demonstration is significantly reduced.



“Press”

Case Study: Police-run training courses for journalists in France

Starting in 2006, the French Gendarmerie Nationale, the national military police force, has held special training sessions for journalists. The goal is to introduce journalists to security activities and public order enforcement measures during a demonstration, as well as crowd control mechanisms and crowd behaviour schemes through both theoretical courses and role-playing exercises.

The training courses, which last for four days, are attended by approximately 15 participants representing major French media outlets and TV broadcasters and are held in the National Gendarmerie Training Centre in Saint Astier.

Such training courses help to increase mutual understanding between journalists and public order officers and therefore diminish risks of accident in the course of a demonstration due to lack of discernment or judgement.

Ideally, the form of identification should be negotiated and agreed between journalists associations and law enforcement agencies, in order that both sides know and recognise the agreed emblem.

The role of journalists is to *report* on the event, it is not to become personally *involved* in it. If a journalist is politically active, on the day of a political rally, he or she must choose in what capacity to attend, *either* as a demonstrator *or* as a journalist.

Efforts are underway by the Press Emblem Campaign (<http://www.presseblem.ch/>) founded in June 2004 by a group of international journalists based in Geneva, to strengthen the legal protection and safety of journalists around the world. One of the aims of the organisation is to gain international recognition for an emblem that identifies media workers, similar in principle to the Red Cross emblem for medical workers.

National level efforts to introduce standards that differentiate journalists from demonstrators, and therefore offer a level of protection to journalists in conflict situations, should be also welcomed.

5. Journalists should identify themselves clearly as such, should refrain from becoming involved in the action of the demonstration and should report objectively on the unfolding events, particularly during a live broadcast or webcast. Journalists' unions should agree on an acceptable method of identification with law enforcement agencies and take the necessary steps to communicate this requirement to media workers. Journalists should take adequate steps to inform and educate themselves about police measures that will be taken in case of a riot.

Conclusion

In three earlier Special Reports on conflict coverage, the Office of the RFoM has examined the role and the handling of the media in violent situations in Andijan (2005), Beslan (2004) and Kosovo (2004). The recommendations therein are relevant to the issues raised in this report and should be read in conjunction with the recommendations in this Special Report.⁹

As was the case in Beslan and Kosovo, reports of direct attacks on journalists by demonstrators themselves are, unfortunately, not uncommon. For example:

- In Paris in November 2005, violent attacks on at least five French and foreign journalists took place during urban riots.
- In Belgrade in March 2006 a camera crew from B92 was physically attacked while reporting on the death of Slobodan Milosovic from outside the Sveti Sava hospital.
- In Novi Pazar, in April 2007 a Glas Javnosti journalist was attacked while trying to photograph a column of mourners carrying the body of Ismail Prentic.
- On 9 October 2005 during an opposition rally in Baku, Azerbaijan, unidentified individuals physically attacked and injured a Zerkalo journalist even though he was clearly identified by a blue Press jacket.

It is the role of the police to ensure that key civil rights such as personal security and freedom of movements are afforded to all citizens, including journalists. In three of the four cases mentioned above, journalists reported that assistance had been offered by the police and that their intervention had prevented an escalation of violence.

Unfortunately, attacks on journalists continue within the OSCE area. RFoM continues to receive reports about journalists who have been physically attacked in connection with their professional duties. One such example is the attack on the Kyrgyz journalist Kairat Birimkulov of the State TeleRadio Company on 16 March, who was severely beaten and hospitalised as result of his injuries.

6. Both law enforcement agencies and media workers have the responsibility to act according to a code of conduct, which should be reinforced by police chiefs and chief editors in training. Police chiefs can assist by ensuring that staff officers are informed of the role and function of journalists. They should also take direct action when officers overstep the boundaries of these duties. Media workers can assist by remaining outside the action of the demonstration and clearly identifying themselves as journalists.

⁹ http://www.osce.org/documents/rfm/2005/03/15195_en.pdf (Andjian)
http://www.osce.org/documents/rfm/2004/04/2695_en.pdf (Kosovo)
http://www.osce.org/documents/rfm/2004/09/3586_en.pdf (Beslan)

Summary of Recommendations

1. Law-enforcement officials have a constitutional responsibility not to prevent or obstruct the work of journalists during public demonstrations. Journalists have a right to expect fair and restrained treatment by the police.
2. Senior officials responsible for police conduct have a duty to ensure that officers are adequately trained about the role and function of journalists and particularly their role during a demonstration. In the event of an over-reaction from the police, the issue of police behaviour vis-à-vis journalists should be dealt with separately, regardless of whether the demonstration was sanctioned or not. A swift and adequate response from senior police officials is necessary to ensure that such an over-reaction is not repeated in the future and should send a strong signal that such behaviour will not be tolerated.
3. There is no need for special accreditation to cover demonstrations except under circumstances where resources, such as time and space at certain events, are limited. Journalists who decide to cover ‘unsanctioned demonstrations’ should be afforded the same respect and protection by the police as those afforded to them during other public events.
4. Wilful attempts to confiscate, damage or break journalists’ equipment in an attempt to silence reporting is a criminal offence and those responsible should be held accountable under the law. Confiscation by the authorities of printed material, footage, sound clips or other reportage is an act of direct censorship and as such is a practice prohibited by international standards. The role, function, responsibilities and rights of the media should be integral to the training curriculum for law-enforcers whose duties include crowd management.
5. Journalists should identify themselves clearly as such, should refrain from becoming involved in the action of the demonstration and should report objectively on the unfolding events, particularly during a live broadcast or webcast. Journalists’ unions should agree on an acceptable method of identification with law enforcement agencies and take the necessary steps to communicate this requirement to media workers. Journalists should take adequate steps to inform and educate themselves about police measures that will be taken in case of a riot.
6. Both law enforcement agencies and media workers have the responsibility to act according to a code of conduct, which should be reinforced by police chiefs and chief editors in training. Police chiefs can assist by ensuring that staff officers are informed of the role and function of journalists. They should also take direct action when officers overstep the boundaries of these duties. Media workers can assist by remaining outside the action of the demonstration and clearly identifying themselves as journalists.



Организация по безопасности и сотрудничеству в Европе

Представитель по вопросам свободы средств массовой информации
Миклош Харати

Неофициальный перевод

21 июня 2007 года

Специальный доклад

Отношение к средствам массовой информации во время проведения политических демонстраций

Замечания и рекомендации

Настоящий Специальный доклад является третьим по счету в серии документов, подготовленных Бюро Представителя ОБСЕ по вопросам свободы средств массовой информации, целью которых является разъяснение проблемных вопросов и анализ передовой практики в области деятельности средств массовой информации в регионе ОБСЕ.

В двух первых докладах, подготовленных в октябре 2006 года и в марте 2007 года, был рассмотрен вопрос о роли аккредитации журналистов, а также о регистрации печатных средств массовой информации.

В настоящем Специальном докладе рассматривается вопрос об отношении представителей правоохранительных органов к журналистам во время проведения политических демонстраций.

В последнее время был отмечен целый ряд инцидентов, когда журналисты при освещении массовых демонстраций подвергались чрезмерно жестокому обращению со стороны сотрудников правоохранительных органов. Это обусловило необходимость разъяснить образ действия как правоохранительных органов, так и журналистов во время проведения всех массовых мероприятий в целях создания средствами массовой информации условий для освещения этих массовых мероприятий без каких бы то ни было препятствий.

Государства – участники ОБСЕ взяли на себя обязательства по обеспечению свободы выражения мнений и свободы собраний и гарантировали формирование условий, при которых журналисты смогут работать без юридических или административных ограничений¹. В частности, они "осуждают все формы нападения на журналистов и их преследования и будут прилагать усилия к задержанию всех непосредственно ответственных за такие нападения и преследования"². Кроме того, в руководстве БДИПЧ

¹ Копенгагенское заседание Конференции СБСЕ по человеческому измерению (июнь 1990 года) (7.8).

² Развитие реального партнерства в новую эпоху (Саммит СБСЕ, Будапешт), глава VIII, Толерантность и отсутствие дискриминации в рамках человеческого измерения.

по свободе мирных собраний содержится разъяснение роли средств массовой информации³.

Недавние конфликты в связи с проведением массовых демонстраций заставили обратить внимание как на проблему свободы выражения мнений, так и на вопросы, касающиеся свободы собраний. Однако беспрепятственное освещение демонстраций предполагается не только в рамках соблюдения принципов свободы средств массовой информации и свободного обмена информацией – беспрепятственное освещение демонстраций во многом является элементом права на свободу собраний, поскольку демонстрации сами по себе служат формой реализации права на свободу слова.

При проведении массовых демонстраций как правоохранные органы, так и журналисты выполняют свои специфические функции. Правоохранные органы несут ответственность за то, чтобы граждане могли реализовать свое право на мирные собрания, а также за защиту прав журналистов на освещение мероприятия вне зависимости от его юридического статуса и за мирное предотвращение распространения насилия. Журналисты отвечают за то, чтобы в качестве таковых они могли быть легко идентифицированы, за осуществление репортажей без провоцирования обострения ситуации; кроме того, они не должны принимать участие в самих демонстрациях.

В настоящем докладе рассматривается ряд проблем, периодически возникающих в регионе ОБСЕ, и содержатся рекомендации относительно того, как улучшить отношение к прессе в аналогичных ситуациях в будущем.

Ответственность властей и правоохранительных органов

В соответствии с конституцией правоохранные органы не должны препятствовать или мешать работе журналистов во время проведения массовых демонстраций, и журналисты вправе рассчитывать на уважительное и сдержанное отношение со стороны полиции. Это следует из роли правоохранительных органов в качестве гаранта общественного порядка, включая право на свободный обмен информацией, и из их ответственности за обеспечение права на свободу собраний.

При этом, безусловно, существуют практические соображения. Полиция должна отличать журналистов от демонстрантов в тот момент, когда эмоции захлестывают большие скопления людей. В связи с этим необходим механизм, позволяющий полиции быстро ориентироваться в том, кто должен иметь доступ к информации.

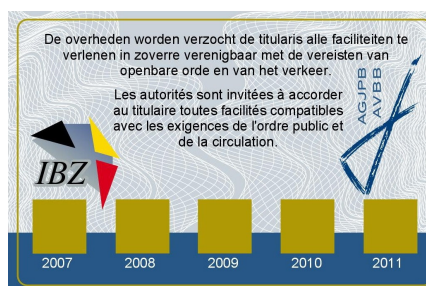
В Бельгии решение проблемы было найдено путем использования Национального удостоверения представителя прессы. В соответствии с Законом от 30 декабря 1963 года журналисты, признаваемые в качестве таковых национальной ассоциацией, получают удостоверение представителя прессы, которое предоставляет журналистам максимально свободный доступ ко всему общественному пространству, включая места проведения демонстраций. На обратной стороне удостоверения представителя прессы содержится следующая формулировка: "Власти должны оказывать предьявителю настоящего

³ "Журналисты играют важную роль в объективном освещении публичных собраний. В связи с этим между ними и участниками этих мероприятий должно быть проведено различие, и власти должны предоставлять журналистам максимально широкий доступ к информации". Раздел А "Реализация законодательства в области свободы мирных собраний" (9), стр. 17.

удостоверения любое возможное содействие с учетом необходимости обеспечения общественного порядка и дорожного движения".



Бельгийское удостоверение представителя прессы (передняя сторона)



Бельгийское удостоверение представителя прессы (обратная сторона)

Предъявив это удостоверение, журналисты могут рассчитывать на предоставление свободного доступа к месту проведения демонстрации для освещения этого мероприятия в прессе.

Тем не менее, даже после предъявления удостоверения журналистам не всегда предоставляется это право доступа. Игнорирование роли как журналистов, так и правоохранительных органов во время проведения демонстраций привело к чрезмерному усердию полиции и к физическому насилию по отношению к журналистам. Например, в этом году:

- Во время проведения каждого из так называемых "Маршей несогласных", организованных объединенной оппозицией 3 марта 2007 года в Санкт-Петербурге, 24 марта в Нижнем Новгороде и 15 апреля в Москве, **Россия**, по сообщениям прессы, несколько российских и иностранных журналистов были задержаны или избиты, несмотря на то что на некоторых из них были надеты яркие жилеты, идентифицировавшие их в качестве журналистов.
- В совместном заявлении четырех ведущих НПО, действующих в сфере массовой информации в **Кыргызстане**, были отмечены четыре случая избития журналистов во время проведения 12–14 апреля демонстраций в Бишкеке, Кыргызстан.
- 28 апреля в Таллинне, **Эстония**, два российских журналиста, освещавших демонстрации против переноса памятника жертвам войны, сообщили о том, что полицейские ударили их дубинками по голове, когда они воспротивились изъятию своей репортерской аппаратуры.
- 1 мая в Стамбуле, **Турция**, группы журналистов сообщили об использовании правоохранительными органами слезоточивого газа и о других формах насилия для пресечения действий демонстрантов и журналистов.
- 2 мая в Лос-Анджелесе, **США**, во время проведения митинга иммигрантов сотрудники полицейского управления Лос-Анджелеса избили дубинками нескольких телевизионных комментаторов.

Примеры из прошлых лет:

- 2 марта 2006 года в Минске, **Беларусь**, в период подготовки к президентским выборам местные и иностранные журналисты, пытавшиеся подготовить репортаж о задержании кандидата от оппозиции, были избиты и арестованы ОМОНОм; некоторые из них были госпитализированы с легкими телесными повреждениями; кроме того, полиция конфисковала их съемочную аппаратуру.
- 11 октября и 26 ноября 2005 года в Баку, **Азербайджан**, десятки журналистов стали жертвами нападения полиции во время проведения демонстраций. На журналистах были надеты яркие жилеты, идентифицировавшие их в качестве представителей прессы.

В письме от российских властей, адресованном Бюро Представителя по вопросам свободы СМИ 7 июня 2007 года, указано, что, поскольку не один из задержанных журналистов не обращался с жалобами, расследования их дел не могут быть возбуждены. К сожалению, похоже, что сотрудники российских правоохранительных органов не понесут ответственности за акты насилия против журналистов во время недавних политических демонстраций.

В заявлении, сделанном в апреле, пресс центр Министерства внутренних дел России заверяет, что ситуация с отношением правоохранительных органов к журналистам на подобных мероприятиях в будущем улучшится.

"Несанкционированные" демонстрации

Международные нормы обязывают государства не вводить никаких ограничений на "пользование этим правом, кроме тех, которые налагаются в соответствии с законом и которые необходимы в демократическом обществе в интересах государственной или общественной безопасности, общественного порядка, охраны здоровья и нравственности населения или защиты прав и свобод других лиц"⁴.

Итак, хотя сам термин "**несанкционированная демонстрация**" иногда кажется нелогичным, у властей существуют законные основания для отказа в использовании определенных мест исходя из соображений безопасности или из опасения нарушить работу общественного транспорта.

Однако сам факт проведения массовой демонстрации, вне зависимости от того, является она санкционированной или нет, безусловно, заслуживает освещения в средствах массовой информации, представляет интерес для общественности и, следовательно, журналисты должны обладать теми же правами, что и при освещении любого другого общественного мероприятия.

Объясняя свои действия по отношению к журналистам во время этих общественных мероприятий, власти иногда пытаются оправдать неадекватное поведение представителей правоохранительных органов по отношению к журналистам и демонстрантам ссылками на "несанкционированный" характер данных демонстраций.

⁴ Международный пакт о гражданских и политических правах, статья 21. См. также ЕКПЧ, статья 11 "Свобода собраний и объединений".

Например, в своем недавнем заявлении для прессы руководитель департамента общественных связей министерства внутренних дел России, комментируя действия полиции во время демонстраций в Москве, Санкт-Петербурге и Нижнем Новгороде, сослался на *несанкционированный* характер волны недавних демонстраций⁵.

Для средств массовой информации не имеют значение обстоятельства, при которых проходит мероприятие, будь оно запланированным или спонтанным. Просто их обязанность в качестве профессиональных работников средств массовой информации заключается в освещении того или иного события, и полиция должна относиться к ним так, как если бы демонстрация была "санкционированной".

- 1. В соответствии с конституцией представители правоохранительных органов не должны препятствовать или мешать работе журналистов во время проведения массовых демонстраций. Журналисты вправе рассчитывать на уважительное и сдержанное отношение со стороны полиции.***
- 2. Старшие должностные лица, отвечающие за методы работы полиции, должны обеспечить соответствующее обучение полицейских по вопросам роли и функций журналистов, и в первую очередь по вопросам их роли во время проведения демонстраций. В случае чрезмерной реакции со стороны полиции вопрос о поведении полиции в отношении журналистов должен рассматриваться сам по себе, вне зависимости от того, была демонстрация санкционированной или нет. Оперативная и адекватная реакция высшего полицейского руководства необходима для обеспечения того, чтобы такая чрезмерная реакция не повторялась в будущем, и должна служить явным сигналом, что подобное поведение будет пресекаться.***

Аккредитация для освещения политических демонстраций

Недавно был также поднят вопрос об аккредитации журналистов для освещения массовых демонстраций, в частности, в контексте проведения несанкционированных демонстраций⁶. В Специальном докладе Представителя по вопросам свободы средств массовой информации на тему "Аккредитация журналистов в регионе ОБСЕ" содержится разъяснение условий, при которых журналисты должны получать аккредитацию:

"Система аккредитации была создана для того, чтобы журналисты могли получить доступ в особые места с ограниченным пространством, а также доступ к определенным "закрытым зонам", включая районы военных действий и места, которые считаются опасными или закрыты властями по причинам безопасности. Она также позволяет журналистам участвовать в официальных мероприятиях и визитах"⁷.

Таким образом, аккредитация необходима лишь в тех случаях, когда в силу необходимости доступ является ограниченным, например доступ к местам для прессы в здании парламента. В общественных местах, каковыми являются городские площади,

⁵ Пресс-конференция руководителя департамента общественных связей министерства внутренних дел, 21 апреля 2007 года.

⁶ Там же.

⁷ http://www.osce.org/documents/rfm/2006/10/21826_en.pdf.

пространство не является ограниченным и, следовательно, необходимость в специальной аккредитации отсутствует.

- 3. Нет необходимости в специальной аккредитации при освещении демонстраций, за исключением случаев ограниченности на некоторых мероприятиях таких ресурсов, как время и пространство. Журналисты, решившие освещать "несанкционированные демонстрации", должны пользоваться таким же уважением и защитой со стороны полиции, как и при проведении других общественных мероприятий.**

Корректное отношение к печатным материалам и оборудованию

Естественно, что отношение к личному снаряжению журналистов всегда должно быть корректным. Конфискация их профессиональной техники, такой как видеокамеры или аудиозаписывающая аппаратура, является уголовным преступлением и представляет собой почти то же самое, что выключение микрофона основного оратора во время санкционированной демонстрации. Если полицейские ломают или разбивают аппаратуру намеренно, то это должно рассматриваться в качестве уголовного преступления и виновные должны нести ответственность за свои действия.

Бюро Представителя по вопросам свободы средств массовой информации также зафиксировало ряд случаев прямой конфискации властями печатных материалов непосредственно перед началом массовой демонстрации. Например:

- В Бишкеке, **Кыргызстан**, 11 апреля в соответствии с ордером на изъятие имущества, выданным прокуратурой, были конфискованы свежие номера четырех оппозиционных газет, а также печатные формы и электронные носители информации.
- В Самаре, **Россия**, 11 мая, за неделю до проведения "Марша несогласных", запланированного на 18 мая, представители средств массовой информации сообщили о рейде полиции в местное отделение независимой газеты "Новая газета", в ходе которого были конфискованы компьютеры и финансовая документация. По имеющимся сообщениям, по крайней мере еще два случая крупномасштабной конфискации оппозиционной газеты "Марш несогласных" имели место перед проведением аналогичных демонстраций 20 марта и 30 апреля, соответственно, в Нижнем Новгороде и Санкт-Петербурге.

- 4. Преднамеренные действия с целью конфискации, повреждения или порчи журналистской аппаратуры для ограничения передачи информации являются уголовным преступлением, и виновные должны нести ответственность за свои действия в соответствии с законом. Конфискация властями печатных материалов, отснятых видеоматериалов, звуковых файлов или других материалов для репортажа представляет собой откровенную цензуру и в качестве таковой считается практикой, запрещенной в соответствии с международными нормами. Изучение вопросов, связанных с ролью, задачами, ответственностью и правами средств массовой информации должно быть включено в программы подготовки полицейских, в круг обязанностей которых входит обеспечение безопасности при проведении массовых мероприятий.**

Обязанности журналистов

В руководстве БДИПЧ по свободе мирных собраний содержится краткое изложение обязанностей журналистов:

"Журналисты играют важную роль в объективном освещении публичных собраний. В связи с этим между ними и участниками этих мероприятий должно быть проведено различие, и власти должны предоставлять журналистам максимально широкий доступ к информации. Во избежание ошибок и в целях облегчения такого доступа может возникнуть необходимость обратиться к журналистам и другим сотрудникам средств массовой информации с просьбой обеспечить возможность их идентификации, например, путем ношения флюоресцирующего нагрудника"⁸.

На фотографии изображен один из методов, с помощью которого журналисты могут себя идентифицировать. Жилет позволяет журналистам отличить себя от других демонстрантов, а правоохрательным органам – адекватным образом реагировать на просьбы журналистов. Находящийся в России "Центр экстремальной журналистики" распространяет такие жилеты среди работающих в России журналистов. Когда журналистов можно легко идентифицировать, вероятность их вовлечения в саму демонстрацию существенно сокращается.



"Пресса"

Тематическое исследование: Учебные курсы для журналистов, организованные полицией во Франции

Начиная с 2006 года французская Gendarmerie Nationale – национальная военная полиция – проводит специальные учебные занятия для журналистов. Их цель состоит в том, чтобы, используя как теоретические занятия, так и ролевые игры, ознакомить журналистов с мероприятиями по обеспечению безопасности и общественного порядка во время проведения демонстраций, а также с методами обеспечения безопасности при проведении массовых мероприятий и алгоритмами поведения толпы.

Учебные курсы, которые проводятся в течение четырех дней в учебном центре национальной жандармерии в Сент-Астье, посещают около 15 человек, которые представляют основные французские информационные агентства и телевизионные вещательные компании.

Эти учебные курсы помогают повысить уровень взаимопонимания между журналистами и полицейскими, занимающимися обеспечением общественного порядка, и таким образом уменьшают вероятность инцидентов во время проведения демонстраций, вызванных трудностями с идентификацией или принятием неправильных решений.

⁸ Section B Human Rights Monitors, Media and Other stakeholders, (168, p 75).

В идеале, метод идентификации должен быть выработан и согласован при участии профессиональных ассоциаций журналистов и правоохранительных органов, для того чтобы обе стороны знали и признавали согласованную эмблему.

Задача журналистов заключается в *освещении* мероприятия, при этом они не должны персонально *участвовать* в нем. Если журналист политически активен, то в день проведения политического митинга он или она должны выбрать, в каком качестве принимать в нем участие – в качестве демонстранта *или* в качестве журналиста.

Образованная в 2004 году группой работающих в Женеве журналистов Кампания по использованию эмблемы прессы (<http://www.presseblem.ch/>) предпринимает шаги по повышению степени правовой защиты и безопасности журналистов во всем мире. Одной из целей организации является обеспечение международного признания эмблемы, позволяющей идентифицировать работников средств массовой информации, аналогичной по своему характеру эмблеме Красного Креста, используемой медицинским персоналом.

Следует также приветствовать предпринимаемые на национальном уровне усилия по согласованию и использованию признаков, позволяющих отличить журналистов от демонстрантов, что обеспечит определенный уровень защиты журналистов в конфликтных ситуациях.

- 5. Журналисты должны четко идентифицировать себя в качестве таковых, избегать участия в действиях демонстрантов и обеспечивать объективное освещение разворачивающихся событий, в первую очередь во время прямой или интернет-трансляции. Союзы журналистов должны согласовать с правоохранительными органами приемлемый метод идентификации и предпринять необходимые шаги для информирования работников средств массовой информации об этом требовании. Журналисты должны предпринять необходимые шаги для повышения уровня собственной информированности и осведомленности о действиях полиции, которые могут быть предприняты в случае возникновения беспорядков.**

Заключение

В трех предыдущих Специальных докладах об освещении конфликтных ситуаций Бюро Представителя по вопросам свободы средств массовой информации проанализировало роль средств массовой информации, а также отношение к ним во время сопровождавшихся насилием событий в Андижане (2005 год), Беслане (2004 год) и Косово (2004 год). Содержащиеся в этих докладах рекомендации применимы в отношении проблем, поднимаемых в настоящем докладе, и должны рассматриваться в комплексе с рекомендациями, содержащимися в настоящем Специальном докладе⁹.

К сожалению, достаточно часто поступают сообщения о нападении на журналистов со стороны самих демонстрантов, как это имело место в Беслане и Косово. Например:

- В Париже в ноябре 2005 года во время городских беспорядков насилию подверглись по крайней мере пять французских и иностранных журналистов.

⁹ http://www.osce.org/documents/rfm/2005/03/15195_en.pdf (Андижан)
http://www.osce.org/documents/rfm/2004/04/2695_en.pdf (Косово)
http://www.osce.org/documents/rfm/2004/09/3586_en.pdf (Беслан)

- В Белграде в марте 2006 года съемочная группа В92 подверглась физическому нападению вблизи больницы "Свети Сава" во время репортажа о смерти Слободана Милошевича.
- В Нови-Пазаре в апреле 2007 года журналист издания "Глас явности" подвергся нападению во время попытки сфотографировать похоронную процессию, сопровождавшую тело Исмаила Прентича.
- 9 октября 2005 года во время митинга оппозиции в Баку, Азербайджан, неизвестные напали на журналиста издания "Зеркало" и нанесли ему телесные повреждения, несмотря на то что на нем был надет голубой жилет с надписью "Пресса", четко идентифицировавший его в качестве журналиста.

Задача полиции заключается в обеспечении того, чтобы важнейшими гражданскими правами, такими как личная безопасность и свобода перемещения, пользовались все граждане, включая журналистов. В трех случаях из вышеперечисленных четырех журналисты сообщили, что со стороны полиции была оказана помощь, и ее вмешательство предотвратило эскалацию насилия.

К сожалению, в регионе ОБСЕ продолжают происходить случаи нападения на журналистов. Представитель ОБСЕ по вопросам свободы средств массовой информации продолжает получать сообщения о том, что журналисты подвергаются физическому насилию при выполнении своих профессиональных обязанностей. Одним из таких примеров является нападение 16 марта на киргизского журналиста Кайрата Биримкулова из государственной телерадиокомпании, который был жестоко избит и госпитализирован в связи с полученными телесными повреждениями.

В случае если Постоянный совет сочтет эту меру обоснованной, я хотел бы предложить услуги своего Бюро при разработке – в сотрудничестве с Группой ОБСЕ по стратегическим вопросам полицейской деятельности – курса совместного практического обучения для профессиональных работников средств массовой информации и сотрудников правоохранительных органов в регионе ОБСЕ.

- 6. Как правоохранительные органы, так и работники средств массовой информации обязаны действовать в соответствии с кодексом поведения, знание которого должно быть закреплено в ходе обучения, организованного начальниками полиции и главными редакторами для своих сотрудников. Помощь со стороны полицейских руководителей может заключаться в обеспечении информированности сотрудников полиции о роли и деятельности журналистов. Они также должны предпринимать активные действия в тех случаях, когда полицейские выходят за рамки своих служебных обязанностей. Помощь со стороны работников средств массовой информации может заключаться в том, что они не будут участвовать в действиях демонстрантов, а также в обеспечении своей легко различимой идентификации в качестве журналистов.***

Краткое изложение рекомендаций

1. В соответствии с конституцией представители правоохранительных органов не должны препятствовать или мешать работе журналистов во время проведения массовых демонстраций. Журналисты вправе рассчитывать на уважительное и сдержанное отношение со стороны полиции.
2. Старшие должностные лица, отвечающие за методы работы полиции, должны обеспечить соответствующее обучение полицейских по вопросам роли и функций журналистов, и в первую очередь по вопросам их роли во время проведения демонстраций. В случае чрезмерной реакции со стороны полиции вопрос о поведении полиции в отношении журналистов должен рассматриваться сам по себе, вне зависимости от того, была демонстрация санкционированной или нет. Оперативная и адекватная реакция высшего полицейского руководства необходима для обеспечения того, чтобы такая чрезмерная реакция не повторялась в будущем, и должна служить явным сигналом, что подобное поведение будет пресекаться.
3. Нет необходимости в специальной аккредитации при освещении демонстраций, за исключением случаев ограниченности на некоторых мероприятиях таких ресурсов, как время и пространство. Журналисты, решившие освещать "несанкционированные демонстрации", должны пользоваться таким же уважением и защитой со стороны полиции, как и при проведении других общественных мероприятий.
4. Преднамеренные действия с целью конфискации, повреждения или порчи журналистской аппаратуры для ограничения передачи информации являются уголовным преступлением, и виновные должны нести ответственность за свои действия в соответствии с законом. Конфискация властями печатных материалов, отснятых видеоматериалов, звуковых файлов или других материалов для репортажа представляет собой откровенную цензуру и в качестве таковой считается практикой, запрещенной в соответствии с международными нормами. Изучение вопросов, связанных с ролью, задачами, ответственностью и правами средств массовой информации должно быть включено в программы подготовки полицейских, в круг обязанностей которых входит обеспечение безопасности при проведении массовых мероприятий.
5. Журналисты должны четко идентифицировать себя в качестве таковых, избегать участия в действиях демонстрантов и обеспечивать объективное освещение разворачивающихся событий, в первую очередь во время прямой или интернет-трансляции. Союзы журналистов должны согласовать с правоохранительными органами приемлемый метод идентификации и предпринять необходимые шаги для информирования работников средств массовой информации об этом требовании. Журналисты должны предпринять необходимые шаги для повышения уровня собственной информированности и осведомленности о действиях полиции, которые могут быть предприняты в случае возникновения беспорядков.
6. Как правоохранительные органы, так и работники средств массовой информации обязаны действовать в соответствии с кодексом поведения, знание которого должно быть закреплено в ходе обучения, организованного начальниками полиции и главными редакторами для своих сотрудников. Помощь со стороны полицейских

руководителей может заключаться в обеспечении информированности сотрудников полиции о роли и деятельности журналистов. Они также должны предпринимать активные действия в тех случаях, когда полицейские выходят за рамки своих служебных обязанностей. Помощь со стороны работников средств массовой информации может заключаться в том, что они не будут участвовать в действиях демонстрантов, а также в обеспечении своей легко различимой идентификации в качестве журналистов.