
THE ROLE OF THE OSCE IN MEDIA DEVELOPMENT

International conference organised by Press Now
in cooperation with the Netherlands Helsinki Committee and
the Netherlands Ministry of Foreign Affairs

Thursday, 16 June 2005, The Hague

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CONTENTS

Preface (Dessislava Damianova)	5
Conclusions and recommendations (summary paper by Mark Thompson and Regan McCarthy)	6
Introduction to the seminar (Jan Herman van Roijen)	10
Words of welcome (Gerrit Valk)	12
Opening remarks (Mark Thompson)	13
Session one: The role of the OSCE in promoting Public Service Broadcasting	15
Session two: The role of the OSCE in regulating electronic media	25
Session three: The role of the OSCE in promoting self-regulation and decriminalising libel in the media	35
Session four: Panel discussion	42
Summary remarks (Regan McCarthy)	47
Seminar programme	50
Speakers' Biographies	52
List of Participants	54
Letter of the OSCE High Representative on Freedom of the Media	56
Annex: Media reform in post-conflict Bosnia and Herzegovina	57

PREFACE

The importance of sustaining freedom of expression as a key human right cannot be overestimated in times of increasing political turbulences and active conflicts in many parts of the world. Developing free and professional media environment is only one, but crucial, of the fundamentals in the processes of democratization and stabilization of transition countries and conflict regions.

Like no other international body, the Organization for Security and Cooperation in Europe (OSCE) is well-positioned to ensure that issues of freedom of expression and the existence of independent voices are not overlooked by governments because of certain political agendas. The experiences of the OSCE field missions and offices in media development offer large material to draw lessons-learned, to describe different patterns of activities and interventions, and finally, to identify models that work and models that do not work.

As an organization with a long-term cooperation with various OSCE bodies and field missions, Press Now embarked on the task to describe the media development work of selected OSCE field missions and offices. The aim of the research was to present a clear and objective picture of the achievements and challenges in order to propose recommendations that might help the organization to be even more effective in its media development work.

The results of the research were published in the report "Media Development by OSCE Field Missions" (available at www.pressnow.org)

To continue the discussions and reflections on the media development work of the OSCE that emerged as a result of the report, Press Now organized an international seminar in cooperation with the Netherlands Helsinki Committee and the Netherlands Ministry of Foreign Affairs. Representatives

of different OSCE bodies and field missions, international media experts and NGOs were invited to share their views on the work of the OSCE and suggest ways for improvement.

This book presents a full transcript of the presentations and discussions during the seminar. The conclusion remarks convey the summary thoughts and practical recommendations that emerged at the seminar together with the own conclusions of the two moderators.

Press Now would like to thank all participants at the seminar for making the event an interesting and stimulating experience. Our special thanks go to the two moderators Mark Thompson and Regan McCarthy.

Press Now is also grateful to the Netherlands Helsinki Committee and the Netherlands Ministry of Foreign Affairs for their cooperation and hospitality.

Dessislava Damianova, programme coordinator

Amsterdam, August 2005

MEDIA DEVELOPMENT AND OSCE FIELD MISSIONS - CONCLUSIONS AND RECOMMENDATIONS

This paper derives from a seminar on Media Development and OSCE field missions, which was organised by Press Now and the Netherlands Helsinki Committee, and hosted by the Netherlands Foreign Ministry in The Hague on 16 June 2005. These remarks convey the summary thoughts and practical recommendations that emerged at the seminar, together with our own conclusions as moderators of the event. They amplify the analysis and recommendations offered in Press Now's 2004 report on media development by selected OSCE missions (available at www.pressnow.org)

Mark Thompson and Regan McCarthy

A. Introduction

OSCE missions have done excellent work in media development. At the same time, limited resources have not always been well used. Lessons can be learned from the experiences of a decade and turned into practical proposals.

Missions are affected by many variables largely or even fully beyond their control, including but not limited to their mandates, the situation in their host countries (political, military/security, economic, cultural), the level of international interest in their activity, and their staffing. Nevertheless, we believe it has been demonstrated again and again that media development – apart from its importance in its own right – is also a litmus test of a host government's commitment to other democratisation and liberalisation efforts, and an enabler of such reforms.

B. Guiding principles

- Recognizing that it is unlikely to be a mission's first priority, media development should be an essential ingredient of every OSCE mission's activity.
- All missions are entitled to address media issues, and should be urged to do so, by virtue of the commitments and obligations

accepted by all member states of the OSCE: what might be called the founding or original values of the Organisation.

- OSCE missions possess several clear advantages for media development:
 - a. Their field presence allows them to monitor events on the ground and communicate with the whole spectrum of local and international parties with a stake in media development.
 - b. Their 'soft' political role – which depends on cooperation for its effectiveness – allows them to act, and be accepted as, a fair broker between these parties.
 - c. They can focus significant attention and resources upon media development issues.
 - d. Individual missions have the flexibility to respond and adapt to evolving conditions on the ground.
 - e. As a result of its experiences in the last decade, OSCE is the only international intervention organisation that has a substantial body of media reform and development experience from which it can learn and upon which it can draw for future missions.

- With very few exceptions, OSCE missions do not dispose directly of lavish resources for media development. This makes it especially important to set appropriate priorities, such as the following:

- a. In media development as in other areas, OSCE missions should 'add value' where they can.
- b. For missions, as a rule, the needs of media freedom should come before those of media quality.
- c. Smaller missions should not, as a rule, seek to run media development projects directly, unless such projects are funded extra-budget from an OSCE member state and the mission has the specific media expertise on staff to implement such projects properly.. Otherwise, their energy will usually be better spent in other ways.

- In terms of media reform, the early stages of a mission's deployment are especially important. Patterns of activity ('mission culture') and local expectations form quickly, are hard to change once set, and may come to affect a mission's long-term effectiveness.
- Missions do not need to provide all forms of direct in-house expertise on media development issues but should possess an adequate level of media expertise in staffing so as to ensure credibility as well as effective planning and implementation. An important and distinctive contribution may lie in coordinating the various actors who should be involved in a project or endeavour, bringing in expertise from member States, seeking cooperation from local authorities, and lobbying for voluntary contributions from member states for specific projects, among other roles.
- Each Mission should begin its intervention in media development with a clear set of priorities and scope of work

based upon a careful evaluation of conditions in the host country. Once established, these priorities should form the basis and the limits of intervention until modified on the basis of ongoing assessment of ground conditions and needs.

- As a rule, missions take positions on legal and regulatory issues concerning the media if these can be supported by clear reference to highest international standards.
- Missions should avoid compromising OSCE principles on media freedom for the sake of short-term political benefit, or for progress in another area of mission activity. If they are constrained to make such compromises, they should publicly explain their reasons for doing so.

C. Guiding priorities

- **Gathering information, preparing a strategy** – OSCE missions are not deployed in empty space. A mission's first and continuing task regarding media development is to collect reliable information from governmental and non-governmental sources on the key issues and needs in the media sector and the local and international players which can participate constructively in reform.
- **Protection of journalists** – Wherever journalists pursue their work while facing grave risks to their security and professional activity, media freedom is undermined or worse, denied. Without media freedom, it is not possible for a populace to be truthfully informed about its society and its government, and hence the efforts of OSCE missions are undermined as well. Thus protection of journalists should be an OSCE-wide and mission-adopted priority. (The Mission to Bosnia & Herzegovina developed a range of techniques and mechanisms for helping to protect journalists; these should be studied.)

- **Supporting the development of a ‘dual’ or ‘mixed’ broadcasting sector** – Across much of the OSCE area, state broadcasting networks need to be transformed into public service outlets. At the same time, a viable commercial (private) sector needs to be encouraged both to promote diversity and to forestall attempts to recreate a dominant state broadcaster. The challenges presented by this reform are enormous. OSCE missions can best add value by helping to strategise, lobby, mediate and coordinate among the local and international actors involved.
- **Small grants** – OSCE missions are well suited through small grant programmes to “seed” the development of reform efforts initiated by local media professionals. This can support and contrast with larger, longer-term support provided by NGOs while also serving to build strong relationships with media in host countries.
- **Media legislation** – OSCE missions are generally well placed to assist the process of reviewing, amending and drafting media laws or laws that affect the media such as decriminalization of libel and civil protection against defamation, protection of sources, freedom of information, and establishment of regulatory frameworks, among others. They are likewise well placed to lobby for the adoption of draft laws, and to work with governments and other parties on their implementation.
- **Extra-territorial incitement** – Domestic regulatory instruments are of little use in trying to combat incitement to violence that originates outside the jurisdiction of those instruments, e.g. through print media or “pirate” stations. As an intergovernmental organisation, the OSCE is well placed to raise awareness of and to thwart this problem where it arises on the basis of monitoring by its field

missions, and to respond through the numerous channels at its disposal including diplomacy, policy, public information, and mandate-driven interventions.

- **Localisation** – Missions should localise their media development activity as soon as this can be done without compromising their standards and effectiveness. Simultaneously, there should be continuing international vigilance and readiness to protect the independence of localised media institutions during the life of missions.
- **Inter-agency cooperation and donor cooperation** – In many OSCE mission areas, other international organisations, agencies and donors are engaged in media reform. Missions should do what they can to ensure (a) that its media efforts are not redundant with those of other parties, and (b) that parties share information and, where possible, agree a common intervention and donor strategy.

D. Recommendations

OSCE faces an array of challenges and opportunities in media development related both to its institutional purpose and to its potentially expanding areas of engagement. With the continuing eastward expansion of the European Union, the types and areas of potential engagement by OSCE increase and diversify. So, too, may OSCE see significant changes in the buffer states surrounding an evolving EU. Even now, OSCE is only intergovernmental organisation with missions deployed in Central Asia, a strategic area far beyond the frontier of Europe. Thus, our recommendations are based in part on the premise that OSCE will and can be effectively engaged in more diverse and more difficult conflict prevention and post-conflict scenarios.

- 1) Establish Media Affairs (encompassing media reform and media development) as a pillar of all OSCE missions on equal footing with Democratization, Human Rights, Regional Stabilization, and Elections.
- 2) For small missions engaged in conflict prevention, mission planners should negotiate actively with host countries on the inclusion of media affairs in mission portfolios. It may be optimistic to expect missions to be pro-active on such a sensitive matter as media development in today's climate, in which host governments have succeeded in limiting missions' mandates, resources and activities. However, the central nature of media reform as a pillar of conflict prevention can not be understated.
- 3) For large missions engaged in post-conflict scenarios, mission mandates should include media affairs without compromise. In multi-party intervention (e.g., Bosnia & Herzegovina after Dayton, Kosovo in 1999) OSCE media efforts should be negotiated with other international bodies. However, OSCE should maintain a role in media appropriate to its overall Mission objectives and proportional to its mandate in specific post-conflict interventions.
- 4) Devolve Media Affairs activities to the mission areas. If, as many believe, the OSCE's flexibility is one of its strengths, this quality must be preserved – even against well-intentioned reformers. Thus, The Heads of Missions (HoMs) should not be subject to centralisation or instruction on media affairs but rather should receive directives in the same manner and to the same extent that missions receive policy and budgetary directives on mission-wide matters.
- 5) Establish an expanded role for the Office of the Representative of Freedom of the Media that adds at least two functions: first, to serve as a repository and an archive for laws, policies, frameworks, and other media-related primary documents developed by specific missions. Second, to take a pro-active role in confronting the media reform challenges “west of Vienna.”
- 6) Regarding the second of these roles: OSCE should call on all member states to decriminalize libel in their own countries. It is difficult, if not impossible, to ask governments that host OSCE missions to consider media reforms that other member states – including some with highly developed democratic systems – have not enacted themselves. The failure of some member states to enact this legislation is often cited as justification by host nations for refusing to do so.
- 7) OSCE should convene a committee of media experts with experience in OSCE missions to develop a set of “media benchmarks” associated with multiple stages of conflict prevention and post-conflict intervention. While meant to serve as a guide only for each Mission's activities in media, such a guide will prove useful in determining goals, assessing needed resources, and evaluating progress over time.

WORDS OF WELCOME BY JAN HERMAN VAN ROIJEN, CHAIRMAN OF THE NETHERLANDS HELSINKI COMMITTEE

Ladies and gentlemen, on behalf of the Netherlands Helsinki Committee, I would like to extend a very sincere welcome to you all, particularly since many of you have come from afar. I hope the theme of the seminar, 'The Role of the OSCE in Media Development', will lead to a substantial discussion, which will also bear fruit in the future.

The Helsinki Committee is an OSCE oriented NGO, with as its principal objective the promotion of the international and social legal order to facilitate the realisation of human rights. As a result of being an OSCE oriented NGO, the Netherlands Helsinki Committee is increasingly concerned with the general situation within the OSCE. Our principal point of concern, as became apparent during the OSCE ministerial conferences in Maastricht and Sofia, is Moscow's less than positive attitude toward the organisation. What Russia regarded as foreign interference in its "Near Abroad", was, according to Moscow, accentuated by OSCE support of the Rose Revolution in Georgia and the Orange Revolution in Ukraine. Russia also has problems with the position taken by OSCE countries west of Kiev, on developments in, amongst others, Belarus, Moldova, Kazakhstan, Turkmenistan and Uzbekistan.

And then, of course, there is Moscow's not altogether unjustified view of the OSCE asymmetric policy of criticizing the human rights situation east of Kiev, while hardly or insufficiently focussing on the situations in the western countries.

That, which I briefly described as Russia's current attitude towards the OSCE, has more than anything else led to a crisis within the organisation. As a result, and also marking the

passing of thirty years since the signing of the Helsinki Final Act, the Sofia Ministerial Council decided to establish a panel of eminent persons, to formulate a strategic vision on the future of the OSCE. The national Helsinki Committees were subsequently requested to contribute ideas to the panel on reforming the OSCE. The Netherlands Helsinki Committee then drafted a paper, with input from other Helsinki Committees and from the International Federation. I shall not repeat its contents, because our paper, dated May 2005, is included with your conference documents.

I would however like to add one comment from an outside source, which we received after the completion of our document. It concerns the lack of institutional memory and the lack of accumulation of knowledge within the OSCE. As compared to other international organisations, the OSCE has the disadvantage of not having an adequate permanent international staff system and therefore not having found ways of building up and retaining such memory and knowledge. The OSCE High Representative of Freedom of the Media may have already found this to be a problem and might wish to consider this in the future.

This seminar will of course concentrate on media, but also on OSCE field missions. In page two of our paper for the panel of eminent persons, we have focussed on missions. We regard media as being the principal task of our colleagues at Press Now. Nevertheless I would like to mention par acquit de conscience that we did publish in the fourth edition of our 2004 quarterly, 'The Helsinki Monitor', a summary of 'Media Development by OSCE Field Missions', written by our moderator, Mark Thompson.

Finally, I would like to state how grateful the Netherlands Helsinki Committee is for our constructive cooperation with Press Now, both at present and in the past. I hope that this will continue in the future and that we will have the opportunity of staging many more seminars.

WORDS OF WELCOME BY GERRIT VALK, CHAIRMAN OF PRESS NOW

Good morning, ladies and gentlemen. On behalf of Press Now I would like to welcome you to this international conference and to thank you for your willingness to participate and to contribute to the discussions. I will start to say something about Press Now and about the background of organising this conference together with the Netherlands Ministry of Foreign Affairs.

Press Now supports independent media in transition countries and conflict regions since 1993. Our staff in Amsterdam and in the four field offices work closely with national and international media assistance organisations in providing support and expertise to all aspects of media development. From structural support to print and electronic outlets and training in different skills to reforming the journalistic education.

Press Now is also closely involved in the process of reforming the state broadcasters into public service broadcasters and lobbies for improving the media legislation. Press Now is able to assist the development of independent media in the OSCE area thanks to the funds from the Netherlands Ministry of Foreign Affairs, as well as from the European Union and several other governments.

In 2003, PN cooperated on several occasions with the Netherlands MFA in its capacity of Chairman-in-Office of the OSCE. One of the priorities of this chairmanship was the development of civil society in Central Asia. The Netherlands, as a country, is rightly regarded as one of the states most actively committed to improving media freedom. And even though media development in itself was not a priority of the OSCE Dutch Taskforce, it clearly felt the importance of freedom of expression and the existence of independent voices, especially in Central Asia.

Considering the recent developments in Central Asia, like in Kyrgyzstan and Uzbekistan, it is in my opinion urgent to start with media initiatives and activities in this area.

In cooperation with the Netherlands MFA in its capacity as then Chairman-in-Office of the OSCE, as well as in cooperation with the OSCE Freedom of the Media Office in Vienna, Press Now conducted an extensive research to describe the media development work of the OSCE field offices and missions. Press Now considers the work of the OSCE in the media field of crucial importance, especially in a time of ever increasing awareness that freedom of expression is a key human right, a pillar of the human dimension. And media development is fundamental in the process of democratisation and post-conflict stabilisation. The aim of the research was to present a clear and objective picture and identify patterns in the media activities and achievements of the OSCE field missions, in order to propose recommendations that might help the missions to be even more effective in their work. The results of the study were published in a report, called 'Media Development by OSCE Field Missions', and this conference is a follow-up (step).

With the discussions today, we hope to forge a constructive dialogue between all players: government, missions, media NGOs and media outlets, to ensure that protection of the freedom of expression and enhancing media development stays high on the political agendas of the OSCE member states. I wish you an excellent conference.

OPENING REMARKS BY MODERATOR MARK THOMPSON

First of all, thanks to Press Now for this initiative, and to the Netherlands Foreign Ministry for its support - and its hospitality today. Regan and I take a broadly hopeful view of the OSCE overall and a positive view of its work in media development. As firm believers in free speech, we think OSCE is fully worthy of criticism, criticism that is intended to help and support its endeavours.

We both believe media development should be a standard part of OSCE mission strategies, and that the OSCE cannot afford to treat media development as an option. There are two outstanding reasons for this. One is that the media are an important pillar of social and political power (and technological changes are extending this even further). And secondly, it seems clear - to us at least - that media reform is often seen as the acid test of a mission's commitment to other, less visible kinds of democratic change in a society

For my part, I was very glad to be invited by Press Now a year and a half ago to help prepare a report about the role of OSCE field missions in media development. It was a topic that thoroughly deserved appraisal for its inherent importance as well as its strong interest.

It seemed to me then, and now, that media development is - among the range of activities undertaken by OSCE field missions - very well suited, I won't say uniquely well suited, but very well suited, to appraisal by a non-governmental organisation with no institutional ties to the OSCE itself. And I am very glad too that Press Now and the Netherlands Helsinki Committee have succeeded so well in organising a seminar where the OSCE and media development can be discussed further.

We want to be practical, and our premise today - the guiding principle of our behaviour on the platform - will be practical: namely, what do missions do? What works, what doesn't

work? What is useful to missions? Looking at the wish list of things that missions don't do as media development, what could we realistically ask them to do? What steps are feasible for the OSCE to take?

Among the intergovernmental organisations that get involved in democratic transitions - institution-building - in post-conflict, post-communist societies, the OSCE is well placed to work effectively on the range of challenges that are thrown up by media development.

First, OSCE field missions can straddle the ground between governmental and non-governmental involvement. These missions can, at the same time, have their head in the clouds of ministerial negotiation while their feet rest on the ground of practical, activist engagement. Given that the range of parties who have a stake in the condition of the media is so wide, this inclusiveness is of central importance.

Second, OSCE missions have relatively wide scope of action over media development. The nature of the mandates, and the nature of the oversight by Vienna, and the nature of media development, all conspire beneficially to grant OSCE missions a pretty wide scope to take initiatives in this field. - Of course, this scope will vary from place to place, narrower in some places, broader in others.

Third, the missions all share a concern with democratisation and human rights. Freedom of expression is a pillar of the OSCE's 'human dimension'. This entitles all OSCE missions, in our view, to pay close attention to the situation of media in the places of their deployment, even when media development is not an activity specified in a mission's mandate.

Fourth, OSCE's concern with human rights is combined with its fundamental focus on security. As we all know, security and human rights are sometimes treated as natural opponents

rather than natural partners and allies. I hope we can all agree however that genuine security can only be built on a foundation of respect for human rights, including the citizen's right to know, to speak out, to receive information and to freely discuss issues of public importance - rights which are clearly upheld by international conventions and treaties and international organisations.

The Council of Europe has a similar concern with democratic standards, but it does not deploy field missions in-country with broad mandates. As for the European Union, it would be no use pretending that the legalist and economic burden of the *Acquis communautaire* - let alone the modest provisions in the Copenhagen criteria - can replicate or substitute for the human-rights focus of the Helsinki Conference. By and large, the EU has declined to use the leverage at its disposal - in both the Copenhagen Criteria and the Treaty of Nice - to urge democratic reform of media in the accession countries. There is no reason to suppose that the next wave of accession countries will face tougher requirements, even if we judge that this would be in their citizens' best interests. On the other hand, the EU disposes of resources that OSCE missions can only dream of. With both the Council of Europe and the EU, the OSCE should have fully complementary, collaborative relationships: the OSCE has a presence on the ground that the CoE does not have, while it can offer a corrective to the economic priorities of the EU.

The OSCE's peculiar aptness and suitability to be a mediating organisation corresponds to something fundamental about the nature of media themselves. For the media are, as we well know, situated between the institutions of the state, on the one hand, and civil society, on the other. In this sense, media organisations have two faces, like the old Roman god Janus, looking in both directions at once.

This is the paradox of media. They are - or should be -

independent but regulated. Free but responsible. Driven by their own initiative, but also accountable to wider standards and values that they do not, themselves, decide. Good journalism is individualistic, while also being responsive to collective moods.

There are striking analogies between journalism - or some kinds of journalism - and politics. Good journalists and good politicians both serve certain constituencies. They need to have an intuitive understanding of public moods and expectations, and to take account of those moods.

And if the relationship between politicians and journalists is often neuralgic, I think this is partly because both sides often resemble each other so closely, with a lot of fear and envy. Unacknowledged twins.

First session

Introduction by Ambassador Daan Everts

PUBLIC SERVICE BROADCASTING IN POST-CONFLICT SITUATIONS THE CASE OF KOSOVO

In his contribution Daan Everts, former OSCE Head of Mission in Albania and Kosovo, gave an insight in the support the OSCE gave to free press in Kosovo after 1999. Mr Everts explains that especially the TV station RTK, quickly became one of the most trustworthy sources of information in the country. Mr Everts, however, is not overly optimistic about the role the OSCE can play in the future. “In the future we can expect host countries to have more say in what the OSCE does”, Mr Everts said. “Many consider media development to be ‘risky business’.”

“Let me start by saying that I am delighted to be here today. The Netherlands Helsinki Committee and Press Now are my favourite NGOs, and it is good to see so many familiar faces. Freedom of expression is vital to the development of civil society and to the pursuit and consolidation of democracy.

Public Service Broadcasting (PSB) is an aid to informed citizenship and as such it helps to sustain an open and democratic society through the extension of knowledge.

PSB is based on principles of service, diversity of programming, provisions for minority audiences, including the disadvantaged. It is tasked to provide children’s programmes, unbiased election coverage, and cultural and educational enrichment. Public Service Broadcasting is not the same as state television; although mainly (or partially) funded with public means, it should have a non-political, independent editorial policy.

In a transitional society or (post-) conflict society, where internal enmities are easily inflamed, the need for PSB is even greater as provider of unbiased, fair and moderate reporting. Public broadcasting systems run the risk of becoming the political mouthpiece of the state, because of financial

dependency of some public broadcasters and the tendency of leading political parties to influence the election of directors and editors. Public broadcasting systems are seen as tools for political interference.

After Kosovo’s loss of autonomy in 1989, Kosovar television, RTK, was turned into a (Serbian) state propaganda tool. When the United Nations Interim Administration in Kosovo (UNMiK) and the OSCE Mission in Kosovo (OMiK) arrived in Kosovo in the summer of 1999, the region was in ruins; all institutions were defunct, including RTK. Television and radio were always, and still are, the main source of information in Kosovo, because of the limited outreach of the printed press. Getting television and radio broadcasting up and running again was a main priority for the international community. Radio largely rehabilitated by itself, but television required government - read UNMiK/OmiK - initiative and support. OMiK was tasked with institution- and democracy building and had therefore been entrusted with fostering the development of the Kosovo media sector. One of the main priorities was

supporting the establishment of a Kosovar Public Service Broadcaster.

The establishment of RTK initially posed considerable problems. The terrestrial broadcasting system was destroyed during the NATO air campaign. Substantial (international) funds had to be found for initial investment and operating costs. Recruiting professional personnel was not an easy job. Finding suitable housing for RTK also proved quite a challenge. The restructuring of television in Kosovo also triggered several arguments within the international community: OMIK and UNMIK became involved in a discussion whether the RTK was to serve the international government (UNMIK) as a policy support tool.

A principle discussion also rose over RTK's funding base (Americans vs. Europeans): state subsidies (licence fees) or advertisement income. For RTK, funding from licence fees proved to be insufficient, so these needed to be supplemented with incomes from advertisement and subsidies. It is exactly the notion of independence and responsibility that can be threatened by leaving the financing of public broadcasting to either advertising or state funding exclusively.

Commercial television stations, with US support, protested against allowing advertising on RTK. Advertisers were more interested in RTK, than in commercial stations due to its outreach and popularity as well as its satellite broadcasting reaching the Diaspora.

After a difficult start, RTK took off in 2000 with new inflow of staff and funding (from Dutch and Norwegian governments), international EBU expertise and a new location with state of the art equipment (thanks to the Japanese government). Gradually, the director and staff were 'Kosovarised'. Furthermore, a board of directors was established, consisting of representatives of civil society, without political affiliation, ensuring independent broadcasting policy.

In December 2000, the Journalists' Association of Kosovo awarded a prize to RTK for its demonstration of the highest

journalistic standards in observance of the journalistic code of conduct in the run up to the October 2000 municipal elections. Besides that, another compliment for the RTK was the result of an opinion poll in 2000, which showed that 80% of the Kosovar population saw RTK as the most reliable medium to obtain objective information.

Satellite programming makes it possible to reach the diaspora living outside of Kosovo and is helpful for the image of RTK. Unfortunately, the broadcasting media in Kosovo had a less positive role to play in the March 2004 riots. RTK is specifically mentioned and criticised for generating an "explosive atmosphere of patriotic hysteria" by its coverage of the story. It underlines the importance of reliable, accurate and impartial information in post-conflict situations where there is still a potential for remaining tensions to lead to renewed violence.

RTK has acknowledged its mistakes, and has realised what responsibilities it bears as a Public Service Broadcaster. As a penalty, the Temporary Media Commissioner imposed non-financial sanctions: RTK provided special training for their journalists to make sure something like this will never happen again.

RTK will further develop itself in the future. It has very recently begun broadcasting news with sign language for deaf and hearing-impaired people in the region. Kosovar authorities are working on a new media law to settle the ownership issue of former RTP assets (i.e. buildings). The board of directors will be further Kosovarised.

The coming elections in Kosovo will be a new important test for the RTK to prove its quality and independence. For Kosovo to become a stable multi-ethnic society by European standards, RTK must continue to perform its expected role. To this end, RTK and other media outlets need continued support from the international community.

The OSCE can play a part in media development as the

Kosovar case proves. If it will play this part remains to be seen. I am not as optimistic as some others. In the past, the Heads of Missions had a lot of leeway to determine their own agenda. This is over, I'm afraid. In the future we can expect host countries to have more say in what the OSCE does. They will tolerate OSCE but only if it is allowed to participate. Host countries want to cooperate, they want to be partners. They don't want to be told what to do. That is an important change in attitude.

The current mandate of the OSCE is not media development. Nor is media development a top priority for the OSCE. It focuses much more on the protection of the media, on the human right dimension. Maybe this is because the media are considered 'risky business'. The discussion on redefining the OSCE, does not focus on the role of the media. It is the task of organisations such as Press Now and the Helsinki Committee to make sure that the media are not overlooked during this process.

Response by Gerrit Jan Wolffensperger, former chairman of the Netherlands Broadcasting Service

THE ROLE OF OSCE IN PROMOTING A PUBLIC BROADCASTING SYSTEM

In his answer to Mr Everts, Gerrit Jan Wolffensperger, former chairman of the Netherlands Broadcasting Service, agreed that the OSCE can play an important role in fostering free media. And indeed it has done so in the Balkans. On the whole, however, the OSCE lacks a coherent media development strategy, Mr. Wolffensperger argued. “In the Caucasus the organisation has been much less active to push the media agenda, and even less so in Central Asia.” According to Mr Wolffensperger media development should be an integral component of the OSCE missions mandates.

“I will respond to Mr. Everts, but I hope you don’t mind that I also bring in some points of my own. I agree with the vital role of the OSCE in media development, and more specifically in the development of a Public Service Broadcasting (PSB) system. I believe that a European model of a dual broadcasting system should be strived at in transition and post-conflict countries. PSB can provide vital programming that the market will not provide: quality programming, culture, servicing smaller parts of the audience and all the other qualities of PSB are of crucial importance for the development of citizenship and democracy.

The OSCE has taken a leading role in supporting the transformation of state radio and television, especially in the Balkans. It played and still plays a major role in Serbia and Montenegro. It took the lead in PSB-development in Kosovo, as Mr. Daan Everts already mentioned. It plays a major role in Macedonia.

In the Balkans, transforming state radio and television into genuine public service broadcasters, has long been neglected by the international media development community. The state media played a devastating role in the Yugoslav wars of secession.

Reform of the state radio and television, tools of agitation and propaganda in the hands of nationalist governments, was considered a mission impossible. It was often argued that the independent media, like e.g. radio B92 in Serbia, ATV in Republika Srpska or TVA1 in Macedonia, were the real public service media and that instead of investing in the transformation of the dinosaurs of state RTV, the focus should be on supporting the independent broadcasters to enable them to compete with the state TV.

However, as long as national radio and television remain politically controlled, the reform of the media landscape is not complete. It is not to be expected that, like some seem to hope, the national radio and television will simply disappear. When controlled by the state, in situations of political crisis, they are easily turned into instruments of national or state propaganda. Even while they lose audience to the commercial sector, almost everywhere state TV still commands a considerable share of the audience.

Especially in post-conflict situations, where balanced and accurate information is fundamental, a strong reformed and genuine public service broadcaster gains importance - within a dual broadcasting system when possible. Public radio and

television serves the entire population. It plays a role in building national identity and bringing together different segments of the population. It has a mandate to serve the minorities.

There is simply no alternative to reform. But transformation of state broadcasters into agents of democratic control is probably one of the most difficult tasks of post communist media reform. It is costly and it is politically sensitive. Mr Everts already has made that clear. Even in Kosovo, where a new broadcaster could be built from scratch under the auspices of the international community, the results are questionable. True, RTK produces programs in the languages of the minorities. It did do a good job covering the year 2000 elections, as Mr Everts mentioned. But RTK is still far from being a stable, independent public service broadcaster. It failed to pass the test of editorial maturity when covering the March 2004 events. It will take time before it has regained the trust of the minorities. And as long as its funding is not guaranteed, its future remains uncertain. Maybe the lesson is that the 'Kosovarisation', came too early. It is still too early for the international community to withdraw.

Press Now from the very beginning was involved in supporting RTK in close cooperation with Mr Everts. Its main experience with developing PSB however is in Macedonia. Since 2001 Press Now was actively involved in lobbying against the establishment of a separate Albanian channel. Later, from 2002 onwards, together with the OSCE and the Thomson Foundation Press Now directly supported the newly appointed Director General in her efforts to reform. The management of MRTV implemented a major restructuring of the organisation, reducing staff, economising on space and related expenses, renegotiating the debts it inherited from the past. The Albanian parties were eventually persuaded to give up the idea of a separate Albanian channel, which would not only endanger

the sustainability of the public broadcaster as such, but would also lead to further ethnic segregation instead of integration.

But the reforms so far have been mostly organisational. Although an integrated news intake desk was established, serving all seven language departments with news, integration of the minority departments is still far from ideal. Further steps are needed to improve programming and to strengthen the multi-ethnic character of the station.

The OSCE has played a commendable role, closely coordinating with the relevant international and local organisations involved. However, the OSCE was less active in the overall strategic discussions. It waited for adoption of a new Broadcast Law. The international community has always maintained that major support to the transformation of MRTV was conditioned by the adoption of a new Broadcast Law. However, the same international community did not want to push adoption of the Broadcast Law because there were other, more pressing issues to solve, like the adoption of the Law on Municipal reorganisation and local elections. As a consequence, the conditionality, which was meant to promote the transformation, in practice slowed down the process, discouraging the management of MRTV. I am happy to learn that in the mean time the Netherlands Embassy in Skopje has taken the lead, opening the discussion on the issue of conditionality.

Development or transformation of a PSB demands perseverance and (long term) commitment, especially in post-conflict situations. The OSCE is well placed to take a leading role. Backed by a broad mandate to support democratisation processes, it should be able to muster considerable international support for the transformation of state radio and TV, calling on other international organisations like the

Council of Europe and donor governments for expertise, political backing and finances. Being an intergovernmental organisation, it can directly deal with national governments and governmental bodies.

However, as was pointed out in the Press Now report 'Media Development by OSCE Field Missions,' the OSCE as a whole lacks a coherent media development strategy. It has been very active in the Balkans, thanks to a wide mandate and a relatively large budget. In contrast to that, in the Caucasus - Georgia, Armenia, Azerbeidzjan - the OSCE has been much less active to push the media agenda, and even less so in Central Asia. Much depends it seems, on the will and motivation of the Heads of Mission to engage in media activities. In Kosovo much could be achieved thanks to the engagement of Mr. Everts. But in other cases the Missions were much less active. Wider international priorities determine where OSCE is active at all. As the experience in Serbia and Montenegro shows, media development in some OSCE countries is vulnerable to trade-offs between short-term political objectives and longer-term goals.

The report ends by listing a number of recommendations. I will not quote them here. But media development in my view should be an integral component of the OSCE missions mandates. It may not be the most important component of the missions mandate, but it is an indispensable part of it. And within that mandate, transformation of state into public service broadcasters should take a prominent position.

The OSCE, because of its multilateral legitimacy and prestige is well placed to push the reform agenda, backing local and international NGOs efforts in this field. OSCE assistance can be most effective in the early phase of transition, when the host government needs to be encouraged to start reforms. More than money, this requires political attention. When reforms are under way, and the main problems affecting the

media sector are no longer caused by government resistance, other, more specialised organisations can take over.

The OSCE should avoid duplication with other specialised organisations, like the Council of Europe or media development NGOs. It should focus on where lies its main strength; that is its diplomatic clout and position to coordinate the development of a strategy that is supported by all parties involved. It should stay away from micro management and execution of individual projects.

The Office of the Representative on Freedom of the Media could play a more prominent role: supporting the Missions when developing their media strategies, mediating financial support and gathering and disseminating best practises and lessons learned. If the OSCE considers media development of such strategic importance, than it could consider formulating a number of central principles of media development to support Heads of Missions in defining their approach.

As I said earlier, OSCE has played a major role in media development in many countries. What we have to do now is learn from the experiences in order to pursue with even more vigour and maybe even more efficiency our common goal to strengthen democracy by fostering free media and Public Service Broadcasting.

Discussion following the speeches by Mr Everts and Mr Wolffensperger.

Miklos Haraszti remarked that media are considered to be part of the solution, not part of the problem. He noticed a lack of media focus on the part of the OSCE. "It is hard to find a common focus on anything in the OSCE and the trend is away from that. It is an uphill battle." The mandates of the OSCE are nowadays often the result of negotiations between participating

states, Mr Haraszti said. Media development is not high on their agenda, nor are human rights. Answering both speakers, Mr Haraszti stated that his office believes in a dual system. However, he believed this system to be in a big crisis. It is facing disappearance if it does not answer the funding problem and finds a way between the independence from the state and the competition with the commercial sector.

Mr Haraszti went on to explain that the 15 years of struggle for independence would result in devastating crises if the public broadcasting were to be left to compete with commercial entities. "If we let the financing to be obtained through advertisements, we push public broadcasters towards the market competition. This is alien to their task. Commercial programming makes them no more than a weaker commercial station. In the long run this ruins their financial position. Because parliament will eventually ask itself: why are we paying for this?"

The answer lies, in Mr Haraszti's view, in reconsidering the European Broadcasting Union (EBU) philosophy of proposing a mixed financing of the public broadcasting. "I believe that there are no built-in guarantees in the law that will prevent them from falling in the downward spiral I described before. The solution should be a new state financing system. We need a dual system that supports public broadcasting. That takes public broadcasting out of the commercial arena. It is a system like Channel Four in Britain, like the Georgian and Lithuanian system and also like the Finnish TV." According to Mr Haraszti the state financing should be automated, for example by fixing it at a certain percentage of GDP. "Financing should be secured for the long term, indexed against inflation. This should be secured for many years ahead and safe from inflation. Also, of course, the initial sum should be sufficient." To conclude, Mr Haraszti stated, that commercial broadcasting should contribute to sustaining public broadcasting and public broadcasting should be freed from the oppressing fight for

commercial programming. "We should go back to the roots", Mr Haraszti concluded.

Roland Bless explained that he was spokesman of Daan Everts in 1999 and 2000 in Kosovo and thus has lived some of the events that Everts recapitulated in his speech. He added some 'lessons learned' from the Kosovo experience.

First of all, Mr Bless remarked that not only RTK was built up during this period, but also UNMiK had its own TV and radio. "That made a very unhealthy competition", Mr Bless argued, "And it took the international community too long to get rid of it." It could not have been foreseen, that the media in Kosovo would flourish so quickly.

The second point of Mr Bless was that the two systems introduced in Kosovo actually performed equally mediocre. And the international donors, instead of promoting either the European or the American system, should work together.

Regarding the 'ethnic mix', Mr Bless argued that media development did not really come to grips with reality. "We failed to have a Serb segment in the Kosovo media community." According to Mr Bless, the first month failed because of the lack of 'rule of law'. "The safety of journalists from all communities coming to press conferences and such, should have been number one on our agenda."

Mr Bless warned the OSCE that in future countries where the organisation will be active, governments will not be so favourable to, or prepared for, media development. For example in the Caucasus and Central Asia there will not be the same acceptance for building in media mandates. That is the political reality, Mr Bless stressed.

Taras Kuzmov argued that the OSCE has a role to play in ensuring the political will within governments in truly transforming state TV and radio. The OSCE should leave the 'nitty gritty' and the technical aspects to others, and focus on holding the

government to their promises. The OSCE should not just wait for new legislation. This is especially true for the situation in Ukraine.

Johan te Velde stressed that in Kosovo there is no heritage of a former public broadcasting. This makes the situation there more like state building than like transformation. He warned that the supervision of public broadcast should not be taken over by political forces. Regarding the Heads of Missions of OSCE, Mr Te Velde argued that they should have a large degree of autonomy. "The strength of OSCE lies for a great deal within its flexibility." Finally, Mr Te Velde stressed that 'media' are not core business for the OSCE, like political stability and democratisation. To concern itself with media development is left to the discretion of the Heads of Missions. "This cannot be solved by setting up new structures in Vienna."

Sarah Broughton admitted that, working in Skopje, she is a little jealous of the situation in Kosovo where public broadcasting had to be built up from scratch. It is a lot harder when you start with a situation where several hundreds of people have to lose their jobs, Mrs Broughton confessed. One lesson learned concerns the role the OSCE can play in the field. While the Council of Europe and the European Commission provide expertise and political clout, the OSCE is present in the field. "It is the eyes and the ears." While the international community sets up a role of conditionality, the OSCE is able to get training and equipment for the public broadcast regardless of this conditionality. Mrs Broughton ended her contribution with a question: "What is the role of a public broadcaster if no one is watching? The question that we all should answer is: how do we get the quality of programmes up?"

Richard Lucas expanded on the question whether the 'Kosovarisation' of RTK came too early. Mr Lucas thought that

the role of the OSCE and of Mr Everts in setting up the public broadcaster in Kosovo, cannot be overestimated. At the time of Kosovarisation, RTK was in good shape, and had a culture of integrity. It was trusted, it was market leader, and reached all that with a small budget. "We achieved that after just two years." Kosovarisation is actually a misleading term, Mr Lucas argued. The team was already for a large part Kosovar. Kosovarisation was mainly the replacement of the general manager (Mr Lucas himself) by a Kosovar. RTK was ready for this transition, according to Mr Lucas. "Until the problems of March 2004 there was no problem. I do not actually know what went wrong in 2004." There was one mistake made during the Kosovarisation, Mr Lucas confessed, and that was not to leave an international advisor present. "I was asked to stay on for another six months and that was it. It would have been wiser to leave an international advisor present for another two years or so. Of course we can only speculate if, with such an advisor present, the coverage of March 2004 would have been different."

Adrienne van Heteren commented that in transition countries the OSCE should not bother with transforming the existing state broadcasting system. "It should immediately introduce a 'mean lean and clean' PSB." The new system should not be burdened with the legacy of the old system, Mrs Van Heteren argued. She also wondered if the OSCE is the right institution to introduce a PSB: "Simply because the USA is a very powerful member of OSCE, and, as we all know, it is not on the US agenda to promote a PSB. Shouldn't this task be left with the Council of Europe?"

Yasha Lange answered Mrs Van Heteren that, if OSCE has a role in security, it also has a role in monitoring the PSB if this PSB is being abused by the state. Mr Lange further commented that the OSCE usually faces governments that,

unlike in Kosovo and Macedonia, are not willing to transform the broadcast system. A lot of today's discussion focuses on two countries that are not exemplary to the situation that the OSCE usually faces, Mr Lange argued. The OSCE can only be effective if both the host country and the management are ready for change. "If they are not, then do not step in, because it will fail." Transforming PSB means a long and nasty process of firing people that have been working for the old system for a long time. "Only step in if you know what you are doing, and if you have enough backing by multilateral organisations and NGOs", Mr Lange warned.

Albana Shala stressed that Serbs considered RTK to be a continuation of the international administration. "It was considered the state television. The two private stations were set up by people who had public functions: politicians. The absence of a public broadcasting tradition produced in March 2004 a situation in which the Kosovar management of RTK had a chance to prove it belonged to the majority. So the task of being a public broadcast was dropped. It turned to propaganda for the majority." When international officials left, some fundamental issues were not solved, Mrs Shala argued: financing, legislation, and international presence.

Regan McCarthy commented that the OSCE's significant involvement in media began in Bosnia. There are many lessons to be learned from this experience, Mrs McCarthy noted. In Bosnia the OSCE had no formal role in PSB development, she explained. The influential role that the Dutch played in Kosovo, the Swiss played in Bosnia. That helped the OSCE to establish a radio station called FERN. This was initially developed for the elections. After two years it covered the entire country and was completely Bosnian run, except for the general manager, a Canadian. This hybrid function could be a model for other countries, Mrs McCarthy

advised. Mrs McCarthy drew the attention to the role NGOs played in the early stages of Bosnian media development: "A massive influx of organisations and money that lead to a very complex media scene." Finally Mrs McCarthy proposed another source of funding for PSB and that is membership or individual donor contributions to PSB operations.

Regarding the remarks of Johan te Velde, Mark Thompson questioned if media development should be an obligatory part of the OSCE mandate in transition countries. Mr Thompson also stressed that he didn't see any way how the OSCE could have a say in the funding of a PSB. "This is definitely for the host country."

Replying to the various interventions, Mr Daan Everts, commented on the role of the OSCE in media development. In his view the trend is that hosting countries more and more decide on the agenda of the OSCE. So it requires pressure, e.g. by the EU, on the host countries if media development is to be part of the OSCE mandate. Once it is part of the package, it can play a very helpful role: regarding legislation, institution building, training of journalists, monitoring the media situation etc.

Mr Everts also raised the question whether the OSCE has a role to play in media development 'west of Vienna'. "The role of the OSCE east of Vienna will be much more accepted if it is not perceived as part of Western arrogance." The OSCE could, for example, play a role in Italy, where the media are dominated by Berlusconi, and in the US, where Fox has a dominating position, Mr Everts concluded.

Also Mr Everts admitted he was the 'father' of the term 'Kosovarisation', and he defended the concept. Generally speaking, according to Mr Everts, the international community has a tendency to underestimate the local potential. This leads to international parties staying longer than necessary.

Gerrit Jan Wolffensperger criticised the idea of a PSB financed solely by governments through an automated system. He pleads for maintaining several sources of financing, to diminish dependency on governments. Mr Wolffensperger also confessed he saw no objection to a limited amount of commercials within the public system, if the 'Chinese Wall' between the advertiser and the content of the information provided by the broadcaster, stayed intact. Mr Wolffensperger warned against putting too much trust on indexed funding by governments. He pointed out that in The Netherlands such an indexation was immediately changed (downwards) by the next government. "Sometimes you cannot trust politicians."

Mr Wolffensperger agreed with the idea of maximum flexibility for the OSCE. "But when democratisation is your goal you cannot leave the role of the media out of it. Maybe the Heads of Missions should be given a 'frame of reference' so that, if they decide to work with media development, they at least do so in the same direction."

Answering the question of what to do with public broadcasting if no one is watching, Mr Wolffensperger stressed that this process also occurs in Western European countries. To stop this process PSB should at least stay in tune with digital developments in broadcasting.

Mr Wolffensperger strongly advocated taking the state broadcasting into consideration while working on media development. "If you do not, you leave an instrument of propaganda in the hands of the old powers."

Second session

Katrin Nyman-Metcalf, Associate Professor of Public International Law at Riga Graduate School of Law

THE ROLE OF THE OSCE IN REGULATING ELECTRONIC MEDIA

Regulating electronic media is only workable in a system of rule of law, Katrin Nyman-Metcalf, Associate Professor of Public International Law at Riga Graduate School of Law, stated. There must be no doubt that all broadcasters face the same requirements in obtaining a broadcasting licence. Other than that, the role of the regulator depends on the local circumstances. "There is no model that is best for the European practice." What international supporters of a regulating system should bear in mind, is that it is essential to have an exit strategy. Without a good exit strategy, political pressure will try and take over the regulation board.

"My presentation will be about regulation support for regulators. As I mentioned, I worked since 1998 until the end of last year regularly in Bosnia-Herzegovina. Since the beginning of last year I work in Kosovo, for the regulators there. For this eminent audience there is no need to point out the difference between regulation and censorship, but this is still something one relatively often has to point out in other contexts. Because, moving from politically controlled media to a free media, for the international community support regulation seems a bit of a contradiction. However, as I said in this context, you will all be aware that having a properly functioning regulation of broadcast media is essential for the freedom of media.

In the context of regulation there are three main tasks for a regulator: licensing, rulemaking, and monitoring and enforcement.

The key legacy that international assistance should leave to a regulator is the implementation of a system of a rule of law. It

is, not surprisingly as a professor of law, my opinion that the legalistic approach is necessary. However, I am also saying this as a person who works in the sector.

Legalistic matters - not in a negative sense - are a key issue to make sure that the regulatory system applies equally to all.

I could quote many angry remarks from international organisations that did not like the fact that the internationally supported regulator would not give a license to somebody who is supported by international money. If such a broadcaster does not meet the rules that have been set up - if he cannot meet with basis licenses and conditions - he should not be licensed only because we know they are good guys. The same is true for the opposite situation: you cannot refuse to license, because a particular group is known as the bad guys. If this group has managed everything that was required, the rule of law must be applied.

In this respect the role of a regulator differs from the role of a law enforcer. However, to engage with the community it should not be a yes or no situation. If somebody wants to have

a broadcasting license, but he does not meet certain requirements, he should be told how to improve and - if done - apply again.

In countries in transition from the socialist system to a free market system, there is no tradition of having a dialogue with authorities. The support to have this dialogue and to make broadcasting communities aware that regulators are also there to help, is very important. And also, it is very important to have a functional system of rulemaking and to make sure that there is a possibility for broadcasters to give suggestions. Recently in Kosovo, when we had a call for public opinions on the licensing system, we only had one comment. However, this apparent lack of interest should not discourage you, because it may be due to a difference in culture. In Bosnia we went around, having so-called regional advisory panels travelling around trying to get comments on rules we were proposing from the sector. And sometimes nobody would show up after a travel of six hours on bad roads. However, the next day we travelled another six hours, because if people have the possibility to influence, hopefully one can create a kind of legitimacy, which would not be there if one felt that the rules were coming from above.

It is always a question for a regulator how interventionist you should be. It turns out that often in this kind of situations there is likely to be over-exaggeration of media outlets. It is necessary to intervene in steps, because it would be politically impossible and not desirable to come in and close everybody down, saying that there are too many radio stations for such a small country. The only way of doing it is to have a two-step approach.

The first step is trying to find out what is going on out there. Broadcasters have to file certain basic information so that you know who is on which frequency and what is really out there.

In Bosnia-Herzegovina people just started using a frequency. There was no control on that.

The second step is the long-term licensing process, where demands can be a bit higher. For the longer-term licence processes it is important that demands are made that are appropriate: demands for technical equipment and for the financial viability. There is no point in giving frequency to an outlet that two weeks later goes bankrupt. Therefore, the broadcaster has to proof his or her economic viability. Demands should not be so different, because the country is in a transition period. They just should be adjusted to what is possible in that particular country. What regulators are doing should be the same everywhere.

That is also true for the other issue I was mentioning: the monitoring and enforcement side of it. In most countries in Europe there is relatively little active monitoring by regulators: it is mainly based on complaints. So, that is the desirable structure to build up. Again, this takes time. Just as there is no tradition of engaging with authorities in a positive way, there is also no tradition of complaining. There is a lot of complaining at home, but not outside. In longer term it should be so that the public reacts when there is something they think is indecent or is initiating to hatred against a certain group. There is always the obligation to keep tapes, so that the regulator can contact the broadcaster and start up his case. It is not possible to monitor everything for a long time, so there should be a plan of active monitoring to enforce certain standards, and to build up a system of complaints. So, there is a gradual shift and at the same time a sort of rulemaking progress going on with public involvement, creating a kind of general knowledge of what is changing and what is going on in the sector.

A small remark on the role of the regulator vis à vis the public broadcasters: there is no model that is best for the European

practice. Whether the regulator has anything to do with the public broadcaster varies between different countries.

I see lots of benefits of having the regulator having a role with the public broadcaster, because several issues will be similar, not in the least the frequency matters. There are special issues for public broadcasters, but certain issues are also similar. It can work well not to have any license for the public broadcaster and to have it separately regulated, but if you have some connection between the two functions you hopefully build up an automatic coordination. By doing this it allows the regulator to know what goes on with the public broadcaster. It is obvious that the situation is different: the whole concept of the licensing is different for the private broadcasters, but I would still say there are several matters that connect the two things.

When everything is built up, everything is new anyway, so why not build in this coordination the same way. There are a lot of benefits to have merged telecoms and broadcast regulators. It may not be so that in any country that has a functioning system it is a good idea for the two existing ones, but if it is being created, why not try to build in some amount of coordination in the system.

My final point is what I think the greatest challenge for international support is the exit strategy. I mentioned the Bosnian system that we had and the organisation that was created under the auspices of the office of the High Representatives. That means that you can have extraordinary powers. It was said before that Bosnia and Kosovo were not very good examples for other countries, but this particular aspect is definitely something special for such a system in this international intervention. The heads of all departments were foreigners from different countries. We all knew from the beginning that we would fade out in favour of national deputies, who moved up to become heads of these

departments gradually. We stayed on to assist our former deputies and then gradually the assistance was reduced to a few days or months or so. This was very good.

I fully agree with the comments on Western arrogance. But I think the way we did it in Bosnia, and how it is now done in Kosovo, takes care of that issue.

The problem is the politically interesting part of the regulator. However good the staff is and however brilliantly the people do their daily work, unfortunately the regulator is very interesting politically. Both he and the top of the management as well as the board will almost inevitably become the target for political takeovers. The point is to maintain some kind of international presence. We are feeling this very much in Bosnia: as soon as the international presence in the council is reduced, all the political, ethnical and also corrupt interests will try to come in. Therefore, it is important to have an exit strategy.

The European Union, we all know, is in a crisis at the moment, but we also know that it will come out of it. I just hope that it is not going to shut the door on further enlargement, because the EU 'carrot-and-stick' method is very useful. If these countries want to have a close relationship with the European Union, they will have to live up to the standards.

Regan McCarthy:

Katrin, thank you very much for taking the extra time.

My first question is that over-saturation of the media is a problem in almost all the post-conflict situations that we encounter. With political control largely being the main reason for proliferation in some immediate post-conflict intervention situations, there is also a rapid influx of money from the international community, which has the undesirable effect of causing a proliferation as well. At the same time, independent

and commercial stations are still under-resourced and the priority often goes to the establishment or the reform of the public or state controlled operators. How would you recommend approaching the dual problems of reducing the saturation of media, at the same time how you would encourage the promotion of a diverse media space through the regulatory body?

Katrin Nyman Metcalf:

I think one thing that the regulator can do, is say it shouldn't try to be too heavy handed and to enforce too much, but especially in a situation like the one in Bosnia. Because sometimes there could perhaps not be things like full merger between stations, but there could be sharing of facilities. I agree with you that at the same time with over-saturation, there is also a problem of too much focus being put on the big public broadcasters and they are very important but we don't get this functioning dual system if there is this confusion on the commercial side of it. It is not the role of the regulator to be "too kind". There must be certain demands to get a license and if a broadcaster just cannot meet those demands then they should be encouraged to try to see how they could meet them. And maybe one way would be for several very small ones to join together somehow.

Rather than to feel that 'because we need them we should just give them more licenses' we know they cannot survive, we know they cannot really put out quality broadcast. The regulator can stick to its conditions but at the same time recommend how it could be done and here other international organisations like the OSCE can play a bigger role because it's not the main role of the regulator to do this. The regulator should not get involved in anything like the editorial policy or the structure of broadcasting. That assistance, giving advice, should come from somewhere else, and it's there where the international community could help. We should say it again: the coordination

of NGOs this herding cats analysis was very good, but you would have some obscure broadcast to pop-up with a big grant from some well-meaning country and this could have been used much better to encourage those people there to instead get involved with something that was already there underfunded and struggling. Unfortunately, the regulator cannot do much there.

Regan McCarthy:

In at least two of the post-conflict regions that the OSCE has been involved with, the OSCE missions have been instrumental in creating the regulatory body and in Bosnia-Herzegovina the OSCE started the independent media commission, although its preliminary oversight quickly fell to the Office of the High Representative. Again in Kosovo it also had and still has this continuing role. Specifically if you can, speaking to the matter of OSCE, not just general international bodies, could you give us your opinion about any benefits or impediments that you see from the international community building or attempting to build a regulatory body from the beginning? And at what point could the international intervention pull out, that is, do you see any benchmarks which you could offer to us as guidance?

Katrin Nyman Metcalf:

It is very difficult to give any exact benchmarks, except that it should be a gradual pull out or a gradual reducing of the involvement. OSCE seems to my mind to be a good organisation, we have talked earlier about the problems of getting media issues to have a focus there, but the benefit of having such an organisation involved in supporting regulators is that it is an organisation that is constantly involved in supporting media issues, in giving comments to different laws setting up of regulatory agencies even when it is not itself involved in actually setting them up. I have been doing that kind of work

for the office in Vienna and commenting on laws that are then just like regular advice given to the political process so it's good to have one body that can then gather expertise and knowledge rather than having this more ad hoc that the regulator needs to be set up and then somebody comes and does it. It worked rather well in Bosnia but that was very much ad hoc, it was just the idea that the help was needed but there was no continuity.

As for the benchmarks, starting from the beginning and having as much local staff, so having as little of this direct international presence there. The reason why it may be needed is one: I know from my own country Estonia, that when the country became independent after the Soviet occupation there was obviously not a lot of expertise around. So you actually need expertise on international law and on international telecoms policy, on frequency issues and so on. That passes away quickly, it takes a few years and expertise will be there. The other side of it was something we fortunately did not need in Estonia, but it is very much needed in Balkan countries: it is the legitimacy for the whole population, where you have this divided societies where it was actually sometimes so that is was very good that it wasn't one of my local colleagues who had to face the public with an uncomfortable decision, because that way you would immediately have these accusations of ethnic bias. If it is a foreigner, it is more difficult to claim bias.

These are the two things I would say:

The expertise issue can be faced out in a different manner, by just simply keeping on, people who can come and help with specific issues. But the political side...it is probably very difficult to make a benchmark because then you think you reached it and then pull out, there is no funding for further assistance and then it may collapse again. My advice would be not to try to benchmark it to much, but be very flexible.

Regan McCarthy:

You spoke about three functions of the CRA type bodies but there are two that weren't discussed and I am curious about your thoughts on them. One that you didn't discuss was transmission and the other was spectrum allocation. Given that there are five functions of CRA type bodies — licensing; transmission; spectrum allocation; laws and regulations; and monitoring and enforcement — would you like to add anything from your experience on the two that you did not cover and - often given the chaotic conditions under which OSCE interventions occur, initially post-conflict - do you have any recommendations about how they might be prioritised or reasonably introduced?

Katrin Nyman Metcalf:

One thing probably to say is that the technical side is less sexy than the freedom of expression side, but it is very important. I don't think one could prioritise in the sense of saying 'one should come first and then the other', but they should all happen, attention should be given to all of them at the same time, but not forgetting that there is no point in creating a very good broadcast regulatory system and forgetting the technical side. I am not exactly sure what you mean by the transmission in this context for the regulator, but the frequency allocation is certainly important.

Regan McCarthy:

Let me explain: in at least some of the OSCE situations, particularly where there has been intense conflict, the military initially takes over the spectrum allocation and the licensing during or immediately after hostilities cease. In those situations, the regulatory body that OSCE is either trying to develop or assisting in developing really has nothing to say about it. That was my particular concern.

Katrin Nyman Metcalf:

Yes and that is a concern, in a sense, but in a way it has not created many problems in some places, that fortunately you get a good cooperation with the military, who will realize that they should only do this when it is absolutely necessary and then they should, although they will retain a right to have whatever frequencies they say is necessary, but they will realize that this should really be frequencies necessary for them and not them getting involved in the sector. That should be the one thing that is very transitory, that goes away sooner, because normally, a role for a regulator is not really to be involved in that sense. Maybe not anything that should come first and should come second, but just not forgetting the importance of structuring the frequency allocation and having a proper frequency spectrum allocation.

Regan McCarthy:

I wanted to ask you about corruption, because it certainly is the experience of many of us, I believe, that corruption in the media is as much as a problem as it is the job of the media to report on corruption. What have you learned about weeding out corrupt media owners, collusion by officials with media owners, or most especially, about establishing a legitimate governing board for the regulation of licensing and transmissions? And in particular I am interested in your perspective on whether cleaning out existing governing boards post-conflict is a useful thing to do or really counterproductive.

Katrin Nyman Metcalf:

Yes it's definitely useful to try to do it; whether it works or not....As I said already before, what I feel is the greatest challenge is this exit strategy and then it would be governing boards that is really the problem, because if you manage to get the corrupt people, say, well, somehow you get the

impression they are really waiting in the wings to get back there and a regulator can only do so much. You can try - and this is also with this actually applying sets of rules, of course, you don't need to reinvent everything that exists, but if there is a society which has this sort of culture of corruption and if there is nobody else trying to do it, then unfortunately a regulator cannot really do so much. A regulator does not have the resources. We can check that what is presented meets the criteria, but what's behind it... I mean, how many steps back do you go, and who is really behind something...You can only do so much, I think it would be a bit over-optimistic, maybe even naïve, to think that a regulator with support by the international community can weed out corruption in the media-sector if it is a corrupt country. I mean, you won't be this little island of everything functioning. All you can do is just try to make it a bit more difficult to be corrupt in a sense, by having proper rules applied.

Regan McCarthy:

In the age of terrorism, the likelihood of extra-territorial incitement of violence, particularly ethnic or religious violence, through the growing use of internet and through satellite transmissions presents special challenges to regulatory bodies. From a legal or practical perspective, is there anything you could suggest that OSCE missions could consider in helping to avert or thwart crises that result from these extra-territorial problems, given that they present obvious problems of regulation?

Katrin Nyman Metcalf:

It's a huge issue; it's a topic for a conference of its own. The European view on extra territorial application of laws generally is rather different than the US view and normally you do not have such possibilities but you can only really enforce anything on the territory where you have jurisdiction.

Especially for the regulator to try to somehow do anything actively about things that emanate from other territories that would be in conflict with the conventional transfrontier broadcasting, and the equivalent EU legislation. An organisation with a wide reach like the OSCE should be able to play a bigger role than any regulator could do in the sense that it can monitor such things and it can try to direct its efforts that where the problem is coming from. I think it will be a mistake to try to do things which in a normal legal situation would not be legal just because it is a transition country.

Regan McCarthy:

My last question and it's sort of an extension of that, is that with the convergence of media through the digitising of media, the question of regulation of telephony or telecoms presents an interesting challenge for regulators everywhere. Particularly I think it affords an interesting opportunity for us to be proactive in helping OSCE missions to consider what positions they should take or encourage on the regulation of telecoms and on the very difficult questions of whether any aspect of internet activity or other telecoms activity should be regulated at all.

Katrin Nyman Metcalf:

That is, again, not forgetting the other side of regulation, whether it is then joint or not, but somehow there is always money in telecoms. However poor the country is, if there is nothing else, there is money in telecoms. And this, of course, attracts corruption as well because the more money there is somewhere, the more interesting it is to be corrupt in that particular area. So if you are trying to set up a good regulatory system and if the broadcast side is the only thing that is focussed on, then it will be difficult to get that to have a real impact anyway. It wouldn't directly affect so much the content of broadcasting, but in creating a functioning regulatory system the problems

of corruption being there. If it is a joint regulator, the influence of corruption on who gets selected to the governing board from the telecoms side is bigger. Than it is another problem that it tends to be in a joint regulator that the focus of the work has to be more on telecoms, it's more labour intensive in a sense and needs more resources. And that shouldn't be forgotten: that suddenly the broadcasting side finds itself under funded and under staffed because you need to focus too much on the telecoms side.

I have been involved a bit in looking at legislation. The ideal way it should work, is that you have both sides involved. Like when I was doing a job in Croatia, which is of course a country that functions in many ways well for a transition country, we had contacts with the Ministry of Culture there that was working on the broadcasting law, but at all the meetings we had, at the drafting meetings where we gave suggestions, the Ministry of Communications or Transport Communications, whatever it was called, was there; the people from the telecoms regulator were also there. We were not working on that law; there were separate laws and separate regulators but everybody involved was there. So they could say 'no this is all very good and nice and in line with EU standards but it would conflict with this other law so in that case this needs to be changed'. So that is the ideal situation. Even if one does not have to have converged regulators, but not forget that the convergence of technologies is a reality and one should at least have that in the back of his mind.

Opening the discussion, **Boris Navasardian** commented that the discussion focussed on situations where public service broadcasting and independent regulatory bodies were established after peacekeeping military missions. He asked for examples when purely diplomatic efforts of the international community were enough to establish real public service

broadcasting and really independent regulatory bodies. “I am asking that, following what Yasha Lange said: if there is no political will from the governments, the OSCE should stay away of any involvement and any imposing of those international standards in the field of media.”

Yasha Lange said that, regarding the setting up of regulatory bodies, it is useful to look at what is happening in Serbia, “a country where the OSCE has the largest media department, has been heavily involved in trying to set up a regulatory body, and - I’m putting it euphemistically - it has not been very successful in doing so.” According to Mr Lange the lesson is that it requires very technical, specific knowledge to help out on setting up a regulatory body. “And the OSCE does not always have that, so it always needs to get it.”

Sarah Broughton expressed her concern that in some cases national regulatory authorities will over-control the market. Also Mrs Broughton asked whether the OSCE could play a role in regulating the media in issues across national borders, as national regulatory authorities can really only regulate on a national level.

Adrienne van Heteren questioned if the OSCE and the Council of Europe have a competence issue regarding the assistance to governments in setting up regulatory governing structures and helping it to introduce proper legislation. She advocated a division of labour between the two bodies.

Regan McCarthy drew attention to the fact that the OSCE in Bosnia did not have a media mandate, but did have significant resources to its disposal. Mrs McCarthy said the OSCE missions should deliberate if they are able to establish a media agenda that is meaningful and useful in the absence of a mandate. “In Bosnia we had a mantra, which we called ‘no

competition, no repetition’, and we basically worked with all the other international organisations to see if we could get them on board with that, to avoid duplication of services. Because we did not have a mandate, but we did have resources that could help everybody fulfil their mandates, including our own.”

Yasha Lange stated that there is no formal division of labour between the OSCE, the Council of Europe or the European Union Delegation. “But sometimes what emerges is a kind of a pattern where the OSCE is on the ground, monitoring, running around; the Council of Europe has the legal expertise, does the analysis of draft laws, and the European Union would then be used as leverage.” The success of missions, Mr Lange argued, eventually depends on the people.

Rita Naseniece added that, in her view, the broadcasting authorities in the Balkans have a good expertise in process management. “And I think the OSCE can be proud of creating this expert pool.” Mrs Naseniece warned however that cooperation between organisations like the OSCE and the national broadcasting authorities should be based on true partnership, and not on playing ‘the big mama’.

Johan te Velde wondered how the media commissioner operated in Bosnia, as the temporary (foreign) Media Commissioner in Kosovo, according to Mr Te Velde, is not particularly popular.

Zurab Khrikadze said that in Georgia, the Commission was set up without OSCE involvement and without enthusiasm from the government. “We can say that there are not many complaints regarding the work that this regulatory commission is doing.” According to Mr Khrikadze, the OSCE is heavily involved in political pressure, regarding the revoking

of criminal defamation. In his view the interventions of the OSCE in this respect were successful.

Wilco de Jonge observed that, in the Balkans, the OSCE has a real added value in monitoring the regulatory bodies. He wondered if the OSCE could also play such a role in the Central-Asian and Caucasian countries. He suggested the development of “a kind of tool system on how you actually monitor regulatory bodies.”

According to **Mark Thompson** it is not necessary for OSCE missions to have all the required expertise available within the staff. “What the staff does need, is to know what they don’t know, and to know who to go to for that.” Mr Thompson further argued that in Serbia there was a failure of leadership regarding media development, both at mission level and at departmental level, at the early stages of the mission. “In Serbia clearly the Head of Mission believed that he just could not separate himself from what he took to be the consensus of the most powerful member states. He was then supported in that by the head of department, and the result was the failures that Mr Lange has mentioned.”

Responding to one of the questions, **Katrin Nyman Metcalf** stated that, in her opinion, the OSCE and the Council of Europe do work well together. In her view the case of Bosnia-Herzegovina and Kosovo are too specific to be taken and used in other situations. “At the same time I think they are definitely worth learning from.” According to Mrs Nyman Metcalf one should not be too pessimistic about the possibilities of influencing a situation, even if enforcing is not possible. “But of course, if there is zero political will, this is not going to work.”

Mrs Nyman Metcalf stressed the importance of the leverage the European Union has to offer. Thanks to the possibility of

joining the Union, the EU really can put pressure behind its words. This leverage can also be used by other organisations such as the OSCE and the Council of Europe.

Regarding cross-border issues, Mrs Nyman Metcalf confessed all one can do is coordinate or try to know what goes on, because enforcing is difficult. “There are very few international organs that have any enforcement capacity.”

About the unpopularity of the temporary media commissioner in Kosovo, Mrs Nyman Metcalf thought it was a good sign that he was hated by all groups in society. “Because if he were just hated by one side, that would be worse.” Being unpopular is part of the job, she suggested. “Sticking to really applying the rule of law, being able to explain every decision you have taken, is really all you can do. People are not going to like it, but as long as they won’t find any gaps in your reasoning and they won’t see that you were partial to one side or another, that is more important than popularity. It is not a job you should do if you want to be loved.”

Regan McCarthy summarised that the OSCE could continue to have a direct involvement in the creation or implementation of regulatory bodies. “Certainly that may be a possibility in big missions or in intense post-conflict situations.” Also the OSCE could provide expertise, develop partnerships with local governing bodies, international and local NGOs, and, finally, play a role in monitoring the situation (“Both west of Vienna and east and south of it as well”).

Mrs McCarthy also suggested that the OSCE could be a repository of success stories and lessons in the area of media laws. “Within the OSCE recent history, we have developed some of the strongest laws regarding the protection of journalists, decriminalisation of libel, freedom of access to information laws, that have withstood intense scrutiny.” In Bosnia, for example, the OSCE had the best media law library in the country, Mrs McCarthy recalled.

The OSCE has developed outstanding protocols for the monitoring of media from the perspective of both enforcement, and the promotion of independent media, Mrs McCarthy said. "And in particular, the monitoring of media during election periods, which is a specific function of many of the OSCE missions, is also something we have considerable documented experience on. That could suggest that the OSCE could also become a repository and disseminator of those bodies of works".

Third session

Miklos Haraszti, OSCE High Representative on Freedom of the Media

THE ROLE OF OSCE IN PROMOTING SELF-REGULATION AND DECRIMINALISING LIBEL IN THE MEDIA

In many countries in Eastern Europe - but also in countries in the Caucasus and Central Asia - freedom and quality of the media are rather limited. Critical journalists receive threats, are physically intimidated or are imprisoned. Governments do not know how to react. Nevertheless, the shortest way to improve quality of media is freedom, said Miklos Haraszti, OSCE High Representative on Freedom of the Media. And not the other way around. So, governments should give more freedom, while, at the same time - the media need a self-regulatory body that makes sure that journalists more and more are living up towards western media standards. In this process, the OSCE must play a pro-active role in order not to get involved in political games.

The request for the subject suggests almost a 'quid pro quo': quality of media, freedom of media. If you have quality, you can get freedom. No, I exaggerated. The subject does not pose so sharply this 'quid pro quo', but there is some suggestion there and I am ready to accept it to a certain extent. Nevertheless, it must be stated that the shortest way towards quality of media is freedom, and not the other way around. And there is no basic 'quid pro quo' here: only some countries have quality media, but it is partial: partially emanated or partially embodied quality in some outlets. I don't believe you can achieve more than that. Where we have it, it was in countries with freedom and that is true even if we suggest that the pioneering role here belongs to the media itself.

Having said that, let's go to the easier, smaller part of the subject, which is self-regulation in the media. I don't have many successes to claim in this respect, my mandate is obviously that of a watchdog, and this barking job is just a ninth point, out of the ten point mandate. Only one chapter of

my mandate allows me to monitor quality of media and that is with respect to instigation to violence, and to intolerance. That was the basis on which I assured, until now, three quality watch reports. One was about Kosovo in March 2004, which we discussed. The second one was the report on the Beslan coverage, and two days ago I assured report on the coverage of the Uzbek crisis.

One quite remarkable success I would like to tell you about is Kosovo. As some of you know, in order to implement the recommendations of the March report, I had for six months a special representative there. This representative, together with a local journalist, wrote a draft self-regulatory body around journalistic ethics. To put it short, after a long preparatory period a press court was drafted and presented to the mainstream media managers. The members of the court were drafted by journalists, not by authorities. To be acceptable by most, only mainstream people were selected. And in cooperation with UNMiK, and with the temporary media

commissioner, the court was finalised in March this year, and was formally accepted and presented in all mainstream media. My office absolutely believes that the future belongs to self-regulation, even if we are having UNMiK there, even if it has a regulatory role. Obviously, we have to ask both local journalists and state authorities to assist in the formation of self-regulatory bodies. That is much better than any kind of outer-regulation. In fact, in the second half of this lecture I will elaborate more on the ethics of any kind of outer-regulation. There are two requirements for these bodies. The best thing is if they develop into a British type of Press Council. The first requirement is that they can only regulate the quality media. Actually, that is a wonderful definition of quality print press: that they are self-regulating in terms of ethics. The second requirement is that that body forms a sub-committee, that does not only act on complaints, but also is pro-active. A proactive approach is necessary, because if the committee only reacts, the rulings will tend to be political, and subsequently a kind of political balancing will take place. For instance, when I pay attention to your complaint this time, next time I will give place to another side's complaint, and the educative, non-setting, quality-creating role of the body will simply not emerge. People will go for goals, for numbers of scores with the body and will not be led by the emerging standards after successive rules. If a pro-active committee itself targets, without any complaints, typical mistakes and tries to typify the mistakes in terms of ethics the press can make, that has an educative role and it is really helpful in developing quality in the country. Actually, it can jumpstart a process that finally causes freedom of the press. This is the sense of quality and responsibility in the media that is a much greater force for independence and freedom of the media than any other.

Let's go to libel. In many OSCE countries, legislators tell us: 'how could you allow to act freely, without any punishment, a

newspaper or magazine that is so libellous?' And then we are having the already described dispute, which centres on what should come first. I have to tell you that that criminal libel, criminal insult, and criminal defamation are the greatest source of individual court convictions against journalists.

Because, Kazakhstan, and other '...stan' countries, Caucasian countries, new democracies, newcomers to the club, can point at towards the other countries and say: 'They also have libel laws, so why are you looking at me?' And I am not talking only about countries east of Vienna. I am also talking about Poland and my own country Hungary. As a matter of fact, when the Justice Minister of Hungary answered my letter, it was with exactly the same formulations - word by word - as the Polish Minister of Justice had replied my letter. Obviously, they worked it out in a regional meeting.

So, what I say is: responsibility towards all those imprisoned journalists in the east, would demand that the European Union - the most important block inside the OSCE - would make a decisive move to remove the criminal libel laws still existing in their law books. A breakthrough in this respect would make it possible for my office to produce wonders in the east.

What is the solution in the meantime? Both for Western Europe and for those countries that have the political willingness to do something, moratorium is the name of the game. Most countries have a system in which prosecutions fall under the responsibility of the government, under the Minister of Justice. They can ask the prosecutions to stop and implement those criminal libel laws, while the reform is being prepared. That would be a signal. This would be such an inexpensive move and politically for my office already it would be enough to show it and to promote the issue at the OSCE.

The analogy with the death penalty comes to mind. The Central European countries that transformed themselves recently into democracies, have with their new constitutions

prohibited the death penalty. But in the west of the OSCE-region many countries still have the death penalty. But the moratorium prevents the penalty from being executed. So, it is a working system - and so inexpensive at that - maybe that would be the next step.

We are basing our actions on the Strasbourg Court. It is a case law on the Human Rights Court in Strasbourg that is under the jurisdiction of the Council of Europe. Because they are only a case law court, they can only repeal sentences, and not laws. What they have done so far every case (there were about 25 or more libel cases for the Strasbourg court), is that they said imprisonment to solve the question of honour and dignity is always disproportional. Second, it is always harmful to freedom of expression. This is the basis of our action. We cannot claim that the Council of Europe and Strasbourg have said a final 'no' to criminal libel. We would be able to claim that, if the EU or more Western countries would make that move first.

Referring to Strasbourg: we spoke to justices and they all told us that they can be influenced by politics and they can be influenced by a number of countries that decide to decriminalize. Then they would be able to go further and tell even more. Right now they have to refer to the relevant chapter of the convention, which in certain circumstances does allow punishment (the word criminal is not in the convention) for honour and dignity, but they would be able to go further.

The Council has a secret weapon, we just spoke about it during the break, and it is secret country monitoring. That is not a public tool and not one available legitimately. It is the minister who does it and it is for internal use only. We at the OSCE have produced a public version of it, called the Matrix: you can download it from the OSCE website. It is a pioneering database of both laws and practices regarding criminal, libel

and information laws for the 45 countries. Of course, this needs constant maintenance. For this we would like assistance from our OSCE-friends to be able to continue the project. In the future it could be a great help for legislators, for human rights organisations etc.

Finally one point: the Helsinki Federation is still very valuable. Why does the Helsinki Federation not consider taking on this libel decriminalisation issue? This could be such a great ally in Western Europe and the whole Western World.

Response by Yasha Lange, Executive Secretary Media Task Force of the Stability Pact for South-East Europe

DECRIMINALIZING LIBEL MAY NOT BE THE ULTIMATE REMEDY

According to Yasha Lange, the OSCE should play a role in the process of establishing of good libel laws that protect journalists and media against unfair punishments. In his answer to Miklos Haraszti, Mr Lange gave six elements that should be part of the OSCE rulebook to decriminalise libel. “But decriminalizing libel may not be the ultimate remedy of a difficult problem.”

First and foremost, I'd like to compliment Mr Haraszti's Freedom of the Media Office with its clear and unequivocal support to decriminalize libel. The campaign to achieve this is a very good thing; the message is clear and can be followed up by the missions. This is, if you will, the beginning of the Freedom of the Media Office setting out positions for the missions.

This is not an easy task since, of course, 24 out of 25 EU member states did not decriminalize libel. So why should anybody else feel compelled to do so? There is little leverage, it seems. Decriminalizing may not even be the biggest issue. Most lawsuits against the media are civil cases. To give you some Balkan facts: In Croatia, there were 540 lawsuits against the media in the last ten years, of which 497 were civil law suits. In Serbia, the number is also rising, with about 300 cases. And in Romania over 400 journalists were sued in 2002, before the law was changed. But the best example why decriminalizing libel may not be the ultimate remedy of a difficult problem may be Bosnia. Libel is decriminalized, but in 2003 and 2004, 290 cases were filed in Bosnia. Fines were between 500 and 4000 euro.

So, it depends on something else too: good libel laws that protect journalists and media against unfair punishments. The OSCE should play a role in this, but it needs to develop a

little rulebook for its missions. The Freedom of the Media Office can do that. I'll give a couple of hints what could be in such a rulebook:

1. No imprisonment whatsoever;
2. Defence of truth, in other words: if what was written was true, it can't be libel;
3. Defence of fair comment, if it was done in good faith;
4. Importantly, the burden of proof should be with the plaintiff. In other words, it's up to the person who feels defamed to prove that it was wrong and badly intended;
5. No special protection for public officials. This is too often still the case;
6. Fairness in fines, possibly capped, should not put the media outlet out of business;
7. Missions should work on aligning the laws and court practice with the international standards such as developed by the ECHR.

Now, lets turn to the other part, self-regulation. The link is: if self-regulation works and a code of ethics are well adhered to, the number of libel cases will drop. Whether this is true or not, is not the question here. The point I make is: the OSCE should not involve itself at all with self-regulation, for several

reasons precisely why the OSCE can be effective in some areas, does not apply to self-regulation. It is something that cannot be imposed from above, it does not require connections with governments and there are no international standards that can be pushed for or requested. It is voluntary.

The OSCE does not have significant experience in the field of self-regulation, which requires sound knowledge of the working of an ethics council, the way to set such a council up etc etc.

There is a difference between working on freedom of the press and working on a good press. Self-regulation falls in the latter category and is something that can only be implemented once a reasonably functioning market had materialized.

One more point, rather than focussing on a free press, the OSCE should work on a good press. I am much less impressed with the effectiveness of the OSCE in working on a free press - such as their work in the field of legislation, including defamation - than I am with their work in improving standards or supporting certain media. In the work on a free press, they have the leverage, the standards are pretty clear: you don't have to be a journalist or know something about broadcasting, to pursue those goals.

Discussion

According to **Boris Navasardian**, journalists in his country, Armenia, do not favour replacing the criminal anti-libel laws with regulations that open the possibility for civil financial compensation suits against libel. In the case of libel, journalists prefer to be imprisoned rather than to pay a fine. This has to do with the weak financial position of most media. If it would be possible to get financial compensation for libel, critical media would go bankrupt very fast.

Mr Navasardian agreed with Mr Lange that the media industry itself should establish a self-regulatory system. However, according to Mr Navasardian, not only owners of media should be involved in this, also journalists and non-governmental organisations (e.g. human rights organisations), and trade unions should participate.

Adrienne van Heteren remarked that, regarding decriminalising libel, we should look further. "In practice the libel problem resolves itself", she said. The question now, in Great Britain for example, is that the new law against libel and insults is prohibiting comedians from mocking certain practices. "We have to refocus this attention on media freedom. If we focus only on libel, we might put a lot of effort where in fact it is no longer needed", Mrs Van Heteren argued.

Roland Bless observed that, regarding self-regulation, sometimes someone has to lend a hand to jumpstart the process. "We need to help with institution building." Mr Bless: "I would not advocate that in a less than perfect environment, no regulation is the best regulation."

Eugenia Benigni warned that in Tajikistan fines will lead to bankruptcy of some media. Only last week a reader who wrote a letter to a newspaper was brought to court and was fined twenty

thousand dollars, Mrs Benigni recalled. Proportionality of fines also should be an issue. Mrs Benigni did not agree with Mr Lange that the OSCE should not get involved in training of journalists. "There is never enough training", Mrs Benigni stated. "In fact, it is the low professionalism of journalists, for example in Tajikistan, that leads to libel cases", Mrs Benigni argued. "Many journalists don't even know that they have to balance their reporting."

Krzysztof Drzewicki agreed with Mr Lange that it is not possible to use the OSCE to attack legal provision regarding defamation and libel in the criminal code of countries. The problem however, Mr Drzewicki explained, is not within the criminal code as such, but rather in the application. "In some countries, laws are used against critical journalists", he argued. "However, this does not mean that we should not try to get rid of some laws regarding libel and defamation."

Regan McCarthy remarked that it is useful to distinguish between insult and libel. "In a number of countries this distinction often is not made in the laws." Mrs McCarthy agreed with Mr Lange that ultimately the responsibility for self-regulation lies with the media industry. But she also agreed with Mr Bless that someone has to jumpstart the process. Another important issue is the education of the judiciary in interpreting the laws regarding libel and defamation. "The OSCE has an influential role to play in this", Mrs McCarthy stated. To Mr Haraszti and Mr Lange she directed the question whether they think that the OSCE should take a position regarding 'reporter shield laws' (the laws that allow reporters to protect their sources).

Regarding self-regulation **Miklos Haraszti** agreed with jumpstarting the process, but in his view it would be a mistake to go beyond the freedom agenda. Self-regulation is a force in defence of the independence of the media, Mr Haraszti claimed:

“It is a way to make sure the government does not come in.” Another argument is the denationalisation of the print press. “It is an OSCE-wide scandal”, Mr Haraszti claimed, that in OSCE-countries the state invests money in the print press. “How can we think of self-regulation if half of the people sitting in regulating bodies are state employees?” By supporting self-regulation, we can help to privatise the media, which is a major freedom agenda.

Regarding the question ‘why decriminalise libel if journalists prefer incarceration to paying a fine’, Mr Haraszti argued: “Well, because of the ‘chilling effect’. Responsible editors would never send journalists on a mission if they risk sending him to prison.” According to Mr Haraszti, decriminalisation would remove a big bulk of the chilling effect.

Yasha Lange agreed with Mr Navasardian that, indeed, also journalists and civil society should take part in self-regulation of the media. Mr Lange also agreed with Mr Bless that someone should lend a hand in this process. “But the question is if this is a task for the OSCE,” Mr Lange acknowledged. In any case this should not be OSCE standard policy, he emphasized. “It is true that without the OSCE there would be no Bosnia Press Council, but in my view it is actually not a case for the OSCE to get involved in: the owners of the print media were not involved in setting it up and never recognised it.” About half a million euros was put into the Council, according to Mr Lange: “And now it is about to die.” He pointed out that he does not oppose the idea of a Media Council, but at that time the media industry was not ready.

Disagreeing with Mrs McCarthy, Mr Lange said that in some instances there has been enough training, even too much of it. “In some countries everybody has been trained five times or more. Although maybe this is not the case in countries like Tajikistan.” Mr Lange argued that organisations like the OSCE

have to focus, and that means that training should not be their priority.

The final remarks of Mr Lange concerned the mandate of the OSCE. Should media development be an obligatory part of this mandate? Mr Lange: “If it’s about a free press, then ‘yes, absolutely’. If it is about the quality of the press, then OSCE involvement should only be an option.”

Miklos Haraszti said that Belgium recently passed a shield law and the USA is about to answer about the imprisonment of at least ten journalists for contempt of court. In the USA a shield law does not exist on the federal level.

Regan McCarthy stated that certain forms of training, especially concerning the protection of journalists, are essential to provide. The example she gave concerned the area of the availability of information from governing bodies. OSCE could help spokespersons of governments to understand that they are not the ones who decide whether the public has a right to certain information. Also the OSCE could train the police about the rights of journalists and train journalists about the obligations of the police. In these fields the OSCE is not competing with NGOs and other bodies, according to Mrs McCarthy. And finally Mrs McCarthy stressed that it is not necessary to choose between a free press and a good press: “We can go for both.”

Fourth session

PANEL DISCUSSION

Panel:

Ambassador Vladimir Pryakhin, Head of the OSCE Office in Yerevan;
Johan te Velde, Director of Democratisation, OSCE Mission to Kosovo;
Peter Palmer, former Head of Media Development, OSCE Mission to Croatia;
Yevgenia Manro, Independent Media Consultant

Moderator **Mark Thompson** referred to remarks made earlier about Central Asia being the crucible of the OSCE. "It is the testing ground of the principles of the organisation. As a result the OSCE will have to examine its own prospects and future role." Ambassador Pryakhin heads the OSCE office in Yerevan, the capital of Armenia. As the first speaker of the panel, he discussed the role of the OSCE in media development in the Caucasus and Central Asia.

In his opening remarks **ambassador Vladimir Pryakhin** pointed out that it seems logical to him that the Caucasus and Central Asia were not being discussed during the first sessions of the congress, since the Balkan countries are much more a geographical entity than the enormous and very diverse region of the Caucasus and Central Asia. Mr Pryakhin: "A country like Armenia better can be compared with, for example, the Baltic States than with Turkmenistan. The OSCE mission in Armenia therefore works in close cooperation with the colleagues in the Baltic States."

Ambassador Pryakhin warned against getting entrapped in legal discussions regarding media freedom: "Freedom of the press is a complex issue, not just a legal one."

The Ambassador confessed that it is sometimes difficult for the OSCE mission in Yerevan not to be perceived as interfering

with internal affairs. "The OSCE office mainly facilitates dialogue with the authorities, especially on media legislation. We have chosen this role, because a number of organisations already support the professional development of journalists and enhancement of the sustainability of media outlets.

This does not mean the OSCE office does not have contact with journalists. We are listening to their problems and trying to help them. However, they know much better than we do what their problems are and what is happening in their country", stated Ambassador Pryakhin.

The OSCE office attempts to assist the Armenian authorities and civil society to bring the general regulatory framework for mass media into conformity with international standards. Mr Pryakhin: "We assist in developing the media by providing an analysis of the legislative gap, by giving legal assistance, and by organising forums to ensure civil society's participation in drafting relevant legislation to advance freedom."

This is not an easy job, as the case of two TV stations, A1+ and Noyan Tapan, shows. Both stations were put off the air exactly one year before the parliamentary and presidential elections were scheduled to take place.

The OSCE, together with CiO, RFOM, the Council of Europe and other international organisations expressed their concerns over the denial of broadcast licenses to A1+ and Noyan Tapan.

After having exhausted all domestic remedies, the case of A1+ - considered to be an 'opposition' channel - was sent to the European Court of Human Rights. Following the Armenian Government's reply to the queries from the European Court of Human Rights in December 2004, A1+ sent its position on the Government's response. The court continues to examine whether the case submitted by A1+/Meltex Ltd is admissible.

The OSCE office has urged the Government of Armenia to find early solutions to this matter. Neither of the stations could restore its broadcasting, even though they have participated in a number of tenders organised since April 2002.

"The relationship with local authorities is very important", Mr Pryakhin explained, "Local authorities should not be considered as adversaries. The precondition for success is the exchange of experiences, like the one we are having now."

As the second speaker of the panel, **Yevgenia Manro** spoke about the difference in media philosophy and culture between east and west. These differences should be taken into account if organisations like the OSCE formulate models - or templates - for media development. First of all, everything takes time in the east. Regarding training, for example, trust has to be built between all partners.

"Newspapers in countries like Tajikistan do not resemble in any way the newspapers in the west", argued Mrs Manro, showing the newspaper Pravda from Tajikistan. Even the journalists look different! What they write is also very different. The journalistic tradition is very different: a lot of training is needed for journalists in Tajikistan to reach an acceptable level. To illustrate this point Mrs Manro quoted a number of Tajiki journalists. The mentality of these journalists must change, she argued. They use tricks to survive as journalists. The wages are very low. Some journalists even have side jobs as taxi-drivers. Their professional ethic is very low. Mrs Manro: "Reading their stories makes your hair stand up: it's

rubbish mainly! Teaching them goes slowly, you have to take time. Just a seminar of a couple of days won't change anything. They'll just listen to it and they will say: 'Okay that's maybe how it works at the New York Times.'"

Trust is also needed between journalist and government officials. Mrs Manro cited the example of a series of roundtable meetings between journalists and government officials, where slowly and during several months trust was built between the two parties. So not just press secretaries should be trained, or just journalists; they should be brought together to build trust between the two.

In his contribution **Peter Palmer** talked about areas with the most added value for the OSCE and he reflected upon the relation between the OSCE and host countries.

Obviously the OSCE operates in difficult circumstances: working in difficult countries and with a limited mandate.

According to Mr Palmer, in the range of activities the OSCE could pursue, training is not the first priority. An important argument, said Mr Palmer, not to prioritise training, is that in some countries the authorities would be glad if the OSCE would be occupied with things like project training. "They prefer to keep the OSCE away from sensitive areas, such as reforming media legislation."

Mr Palmer added that the OSCE would be most effective in political engagement with authorities and monitoring. Only in larger missions with higher budgets, the OSCE could engage in providing expertise. Mr Palmer warned the OSCE not to be too self-assured about its expertise: "This 'we-can-do-it-all attitude was one of the problems of the mission in Serbia."

In Croatia the OSCE mission had a very limited role in media development. They brought in outside expertise, e.g. from the Council of Europe. Mr Palmer stressed the importance of the monitoring role of the OSCE. Unfortunately, some missions tend to ignore this part of the job.

Some heads of missions do not pick up issues from the political level. As a result they are weakening the role of the OSCE. They think that cordial relations with host countries are more important than putting pressure on their hosts to meet the standards. These missions are failing in their task, said Mr Palmer. "Local civilians often get mad when the OSCE mission does not put pressure on their government. This is demoralising. OSCE needs to uphold the standards and not compromise them in order to maintain friendly relations with governments." Mr Palmer admitted that this is not an easy task: "Especially now that host countries insist on a bigger say about the role that OSCE plays in their country." According to Mr Palmer, OSCE had difficulties in upholding the standards especially in Central Asia. "In Balkan countries, that aspire to EU membership, there is much more leverage. The same holds for countries like Ukraine and Georgia, where there were recent changes. Given the commitments these countries made to uphold certain standards, the OSCE could interpret their mandate robustly, and get away with it." Mr Palmer: "In Croatia media experts often told me that they were glad the OSCE was there. Even government officials, with hindsight, admitted that OSCE pressure made transition go faster."

Johan te Velde elaborated on two points that were raised in the panel discussion. The first was the strategic focus of the OSCE. According to Mr Te Velde there should be more unity in the operations of the OSCE, without losing its flexibility. The strategic focus should not be based on rules and regulations coming from the secretariat in Vienna. In OSCE there is too much a culture of relying on instructions, and not enough on convictions. In the view of Mr Te Velde, putting specialists together should widen the focus. Regarding media development, Mr Te Velde distinguished three aspects: legal aspects, monitoring aspects and capacity building: "Monitoring is very important: but is very different

from capacity building. Monitoring means finger pointing. This needs a centralised approach: information should come together at a central point. Capacity building, on the other hand, supposes a decentralised approach: specialists in the fields have to specify the needs and your partners need to formulate the problems. These two models interfere. Cooperation in capacity building does not always go hand in hand with monitoring and finger pointing", Te Velde stated.

Daan Everts responded to the remark about Heads of Missions not having the courage to insist on freedom of the press because of their refusal to stir the relationship with host countries. Mr Everts wondered why these cases were not brought into the open: "Why didn't we hear alarm bells ringing in Vienna? If the OSCE is not performing, organisations such as the Helsinki Committee should turn to Vienna", Mr Everts reposted.

Regan McCarthy was struck by the fact that the protection of journalists was not on the conference's agenda. The Bosnian mission was the only one to establish a help line for journalists. McCarthy asked if protection of journalists could be a role for the OSCE in some - or all? - missions, also taking its field presence into account.

Jos Kösters stressed that it is one thing to have a nice set of press laws, but it is quite another to have these laws implemented according to the standards of the International Court of Human Rights. Mr Kösters asked if the OSCE could play a role in this. Often the relationship between the media and the judiciary is hostile. In the view of Mr Kösters this is largely due to ignorance. Journalists have no clue what the judiciary is doing and vice versa. Making the two groups communicate could be a big part of the solution. Of course during this process the independence of both journalists and the judiciary should be guaranteed.

Sarah Broughton raised the question about OSCE 's role with regard to media ownership. This concerns not only foreign ownership of media, but also transparency of local media conglomerates. Sometimes the political concerns of media owners conflict with the task of journalists to report independently. The question Mrs Broughton raised is whether the OSCE has a role to play regarding this.

Regan McCarthy asked if the OSCE should tackle the matter of cross over media as a part of media development.

Katrin Nyman-Metcalf argued that for colleagues working on media development in the Caucasus and Central Asia, it is more useful to look at the experience of the Baltic States than at, for example, the Swedish model. She asked what the OSCE could do to spread these examples and capitalise on them. She remembered that in Bosnia experts from the Baltic States travelled to the Balkan state to share their expertise. This mission was partly funded by other countries.

Albana Shala emphasised that in countries like Azerbaijan, the OSCE should take a role in protecting journalists. This was in contrast to other - more stable - countries, where journalists are less vulnerable.

Yasha Lange added that there are many NGOs for the protection of journalists, but there is only one intergovernmental institute in this respect: the institute of Miklos Haraszti, an extremely important organisation.

The question of media concentration is much harder to tackle. What about a Dutch journalist or media specialist raising questions about media concentration in a foreign country, while in their own country five out of six national newspapers are owned by just one company? Obviously concentration of

ownership is not always bad for independent reporting, Mr Lange argued.

Wilco de Jonge put forward that the lack of focussing of the OSCE has to do with the funding of the organisation. "It would strengthen the work of the OSCE if it was given a budget of its own", concluded Mr De Jonge.

Mark Thompson drew attention to the differences in view between Mr Palmer and Ambassador Pryakhin. Mr Palmer's point of view was that the OSCE should not compromise on its basic commitments regarding the freedom of expression. Ambassador Pryakhin, however, stressed the importance of compromising. Remembering the situation in Bosnia, Mr Thompson asked if it was possible that in Central Asia governments pretend that the media are a sensitive issue because they do not want the OSCE to meddle, whereas in reality there is room for putting pressure on the governments.

Ambassador Pryakhin denied that he proposed compromising on the principles of the OSCE. But he brought into mind that the OSCE has the task to uphold the principles of press freedom, but also to establish good working relations with host governments. This is a difficult task", the ambassador admitted, but there is no question of compromise concerning the protection of journalists. For instance, last year the OSCE mission successfully intervened when journalists were imprisoned and beaten up. "The challenge is to balance both tasks, because we cannot operate without the cooperation of host countries", Mr Pryakhin stated.

Yevgenia Manro explained that in libel cases it is not always the newspaper or the journalist that is the victim. Sometimes journalists and newspapers themselves do not act responsibly. She reminded the case of the newspaper MSN in

Kyrgyzstan. MSN has a reputation of publishing libel and getting fined for it. "When I asked the editor in chief why his newspaper was publishing libel he answered: 'That's the way we make money.'" The newspaper gained exposure and readers by publishing unsubstantiated stories about corruption and such. Recently the same happened with two newspapers in Kazakhstan. They were recently shut down because of libel cases. It turned out that the journalist did not really care about good standards of reporting. Concluding her remarks, Mrs Manro argued that the OSCE has no role to play in protecting bad journalism.

Peter Palmer wished that more people would hold the OSCE accountable; a task that Press Now fulfils excellently, according to Mr Palmer. He expressed the fear that Heads of Missions that fail to speak up against host governments, do so because that is what the Vienna headquarter wants. Palmer: "OSCE missions are not initiated in a political vacuum. For example, in Serbia, the OSCE was trying too hard not to get in the way of the new regime. At that time I thought that this was a mistake and, indeed, this policy got the mission in trouble in 2003. After this, the OSCE changed its strategy in Serbia. However, it only did so after other organisations changed their attitude towards Serbia, and it did so less convincingly."

Regan McCarthy added that OSCE's Heads of Missions, like other heads of diplomatic bodies, fear a bad press. This speaks dramatically for the media development department and the OSCE Public Information Unit to develop fair and honest relationships with the press. Only then the OSCE can stimulate fair criticism from the local press instead of scapegoating Heads of Missions for political purposes.

SUMMARY REMARKS

Regan McCarthy, Session Moderator:

I will try to keep my remarks quite brief and try to capture what we have been hearing today.

So far, I am struck by three categories of comments. The first has to do with what I would call the “role and mandate” of OSCE. The second has to do with specific views about particular areas of OSCE intervention, which are open. And the third has to do with the “OSCE politics” of media development and whether or not media development is institutionalised within the structure of OSCE missions.

With regard to the first category, the role and mandate of OSCE, I think what we heard is that OSCE should certainly assume that it has a mandate in media reform and/or media development, but that the particular nature and scope of that media development may or may not be formalised into a standard structure. We also heard that we were concerned about variations among missions in terms of their specific roles, conditions on the ground, resources available to each of them and what opportunities and dangers become exposed by having what we might call a “boiler plate” or standard approach to media reform and development. Certainly, the idea that the OSCE should be formally and consistently involved in media development seemed to be conveyed very thoroughly.

Secondly we heard constantly there was a recommendation for strategic focus. And although I am not sure that I heard what exactly that focus is, the concept that came across was that we should not be ‘Willy Nilly’ in our media development efforts; that we should really develop a kind of “essential

structure,” moving forward with some fluidity. We kept hearing that centralisation was not necessarily the right thing to do, but focussed organisation was appropriate and that there should be an ability by each mission to determine on the ground what should happen. Yet there also should be an understanding that media is a priority area as well. Balancing these tensions is an important thing for us to consider in order to formulate recommendations so that others can do a better and fuller effort after this report has been published.

We also seem to hear comments that media development changes overtime. There may be a different set of interventions and even a different approach to media development in the early stages of a post conflict situation and especially in most intense post- conflict situations. However, that will change over time. There maybe more or less regulation or international involvement at different stages, but the overall aim is to develop as much as possible local capacity and a withdrawal of OSCE in certain intervention stages as early as possible.

We also heard that OSCE’s strength is its field presence which is reflected in numerous ways. A phrase that was used today was ‘eyes and ears’, and in many different ways it is very clear that OSCE’s distinctive quality and genuine capacity in the field is that it is present and has weight and leverage as result of that field presence. It also has a significant capacity for monitoring and informing, not only in the “watchdog” sense but also in the sense of informing other international players - whether they are national bodies or IGO’s - on the way they could be helpful as well.

We also heard that media development is an enabler and perhaps a litmus test of other kinds of democratisation and liberalisation efforts that go on in host and/or post-conflict

countries. It often undergirds these efforts and is not merely contiguous with them. The ability to carry out other democratisation, human rights, regional stabilisation, and election processes that OSCE also may undertake is facilitated — and in fact builds upon — media development and reform.

Let me speak about some of the issues that were brought up as substantive areas of work, as there were certain areas which were brought up. Certainly the question was raised of OSCE's role in training journalists and whether it is appropriate for OSCE to engage in training. I got the feeling that it is appropriate, but that the nature of it should be within the context of each OSCE mission's larger role and should not supplant or compete with the well-developed capacities of IGOs and other NGOs that have the ability to do this kind of training. But that specifically OSCE's media-related training might certainly at some level focus on its role in developing intergovernmental relationships (for example, spokespersons' training) and developing partnerships for media reform in a broad number of areas, including training.

We heard about OSCE's role in regulation and whether it should have a function in building regulatory bodies; whether this should be more or less formalised; whether it should be facilitated; or whether OSCE should actually do it. I did not sense that we had a consensus on that question, but it was certainly a question raised.

I believe another area that came up is on the protection of journalists. I might add that one element that was not raised and therefore could cause confusion in this area is verification. I think that Yevgenia's comments can illustrate that, if OSCE should get involved in protecting journalists, its ability to do so effectively can not be based on monitoring and intervention

only, but on verification that in fact journalists are under threat. Journalists can also lie. We need to make sure that missions intervene appropriately to real threats to journalists

We also heard about OSCE's role in the development of media laws and regulations. There was a reflection that on the one hand, OSCE has an appropriate role in the area of media law and on the other hand, it might be helpful to bring in expertise - such as the Council of Europe or other experts from member states. In any case the question of OSCE's role in development in media law was an important topic of discussion.

We also heard that OSCE could have a role in facilitating self-regulation. Again questions were raised about the extent of that: whether its role should be direct or facilitative and whether the role of OSCE should be more sustained over time.

The role of OSCE in the development of the public broadcast sector was also raised and while I think that sense was that the OSCE could definitely have a role in it, again the question was one of scope and durability.

We also heard what I would call "cultural questions" that had to do with things like sensitivity to host countries and understanding that there are profound differences in perspectives on media development. The example was given about an oriental and western point of view on media. There are very different points of view, for example, between societies that are tribal and societies that are not on the role and nature of the media and how media should represent itself. We were encouraged to look at sensitivities in that area as well.

We were left then, finally, with many questions and those questions will not be answered today and may in fact not be

answered by this body, and simply and most efficiently could be used as a basis for additional enquiry and discussion.

We have certainly enjoyed working with you today; we hope it has been as stimulating for you as it has been for us. Our aim is to draw from the conversations that we had today some practical suggestions for OSCE to take forward and to use in beneficial ways for the missions that it has and will have.

SEMINAR PROGRAMME

Moderators:

Mark Thompson, independent consultant, co-author of the Press Now report “Media Development by OSCE Field Missions”;

Regan McCarthy, Ph.D., former Director, Department of Media Affairs and Senior Advisor to Head of Mission, OSCE Mission to Bosnia-Herzegovina

8.30 - 9.00 Registration of the participants, welcome with coffee and tea

9.00 - 9.15 Words of welcome by Jan Herman van Roijen, chairman of the Netherlands Helsinki Committee; and by Gerrit Valk, chairman of Press Now

9.15 - 9.30 Introduction to the conference by Mark Thompson

9.30-10.00 **The role of the OSCE in promoting Public Service Broadcasting**

Introduction by **Ambassador Daan Everts**, Netherlands Permanent Representative to the OSCE, former head of OSCE Missions in Albania and Kosovo; response by **Gerrit Jan Wolffensperger**, former chairman of the Netherlands Broadcasting Service

10.00-11.00 Discussion (60 min.)

11.00-11.30 Break

11.30-12.00 **The role of the OSCE in regulating electronic media**

Introduction by **Katrin Nyman Metcalf**, Associate Professor of Public International Law at Riga Graduate School of Law, former head of legal department, Independent Media Commission/Communications Regulatory Agency in Bosnia Herzegovina; response by **Dunja Mijatovic**, Director of Broadcasting, Communications Regulatory Agency, Bosnia and Herzegovina

12.00-13.00 Discussion (60 min.)

13.00-14.00 Lunch

- 14.00-14.30** **The role of OSCE in promoting self-regulation and decriminalising libel in the media**
Introduction by **Miklos Haraszti**, OSCE High Representative on Freedom of the Media, response by **Yasha Lange**, Executive Secretary Media Task Force of the Stability Pact for South-East Europe
- 14.30-15.30** Discussion (60 min.)
- 15.30-16.30** Panel discussion: (60 min.)
Ambassador Vladimir Pryakhin, Head of the OSCE Office in Yerevan
Johan te Velde, Director of Democratisation, OSCE Mission to Kosovo
Dr. Peter Palmer, Ph.D., former Head of Media Development, OSCE Mission to Croatia
Yevgenia Manro, Independent Media Consultant
- 16.30-17.00** Summary and conclusion
- 17.00-18.30** Reception

SPEAKERS' BIOGRAPHIES

Ambassador Daan Everts (Netherlands) is Permanent Representative of the Netherlands to the OSCE. He studied social-economic sciences in the USA, India and the Netherlands and after working for the Netherlands Ministry of Foreign Affairs, he worked, among others, as Deputy Executive Director of the World Foods Programme, Head of the European Monitoring Mission in ex-Yugoslavia and Head of the OSCE Mission in Kosovo. Ambassador Everts is thoroughly familiar with the OSCE in all its dimensions and has worked extensively with most international organisations and many local and international NGO's.

Yasha Lange (Netherlands) is the Director of the Media Task Force of the Stability Pact for South-East Europe, as well as a media development consultant for various governments and international organisations. He studied media law and policy in the Netherlands and the UK, worked as Director of the Democracy Programme of the European Institute for the Media in Germany, was team leader on behalf of the European Commission during numerous media monitoring missions in South Eastern Europe and the Former Soviet Union and worked three years as editor in the Dutch daily newspaper NRC Handelsblad. He has written three books and over a dozen reports about the media landscape in South Eastern Europe and the Former Soviet Union. He is a member of the board of the Media Fund in Belgrade.

Yevgenia Manro (Russia) holds a PhD in education from St Petersburg Sports Academy and a diploma in international journalism from City University in London. She is currently working as staff reporter with The Moscow Times and The St Petersburg Times and is writing on economics, business,

politics and human interest issues. Previously, she worked at St Petersburg Sports Academy as lecturer at the department of organisation of physical education and tourism and as head of the scientific research department. Yevgenia Manro is one of the co-authors of the report 'Media Development by OSCE Field Missions'.

Dr. Regan McCarthy (USA) has had a distinguished and varied career as a diplomat, educator, fundraiser, psychologist, and consultant in both domestic and international arenas. She served as Senior Advisor to Head of Mission and Director, Department of Media Affairs for the OSCE Mission to Bosnia and Herzegovina. Dr McCarthy was responsible for implementation of media policy and reform efforts of the OSCE BiH as mandated in the Dayton Peace Accords. She is presently Senior Partner of Songmasters, LLC in New York City where she is responsible for philanthropic, educational and civil society programmes for Songmasters and its clients.

Dr. Katrin Nyman Metcalf (Estonia) is Doctor of International Law and Associate Professor attached to Riga Graduate School of Law in Latvia and Concordia Audentes International University in Estonia as well as a regular guest lecturer at Uppsala University, Sweden, reading public international law as well as EU law. In addition to her academic work, Katrin Nyman Metcalf works as a consultant mainly in East and Central Europe, with legislation and institution building issues primarily in the area of communications law. In this capacity, she has been involved in drafting legislation and setting up and working with regulatory agencies in many countries e.g. in South-East Europe.

Dr. Peter Palmer (UK) studied History in the UK and specialised in Yugoslav history. He obtained his doctorate degree from Oxford University with a PhD on The Communists and the Roman Catholic Church in Yugoslavia, 1941-1946. During his career, Peter Palmer worked as an editor for Oxford Analytica and The Economist Intelligence Unit. After that, he worked as political and economic analyst for the International Crisis Group, in Sarajevo, Montenegro, Croatia and Kosovo and as Mission Spokesperson and Head of Media Policy unit at the OSCE Mission to Croatia. He is an analyst of former Yugoslav affairs and is one of the co-authors of the report 'Media Development by OSCE Field Missions'.

Ambassador Vladimir Pryakhin (Russia) is Head of the OSCE Office in Yerevan. He studied History of International Affairs and obtained his doctorate degree in International Relations from the Moscow State Institute of International Relations in 1976. During his career, Ambassador Pryakhin has been Head Counsellor in the Department of Scientific and Technological Co-operation, and then the Department of Security and Disarmament Problems, both within the Ministry. He became First Deputy Director at the Ministry's Fourth CIS Department Affairs in 1995. From 1997 to 2002, Ambassador Pryakhin was a senior counsellor at the Permanent Mission of the Russian Federation to the OSCE, and more recently, Deputy Head of the Department in 2002.

Dr. Mark Thompson (UK) studied English Literature at Cambridge University and obtained a doctorate degree from that same university, from the Faculty of Social and Political Studies. Mark Thompson worked as freelance journalist, as analyst for different UN departments and as Spokesman and Head of Public Affairs at the OSCE Mission to Croatia. After that he was Executive Secretary of the Media Task Force of the Stability Pact for South-East Europe and Balkans Programme

Director at the International Crisis Group. At the moment, Mark Thompson works as freelance writer and consultant for international media development. He is one of the co-authors of the report 'Media Development by OSCE Field Missions'.

Johan te Velde (Netherlands) has worked in democratisation and development programmes throughout his professional career. He started his career with Pax Christi. He worked in Latin America, East and West Africa and in Albania from 1995 until 2000 as director of the Dutch Development organisation SNV, from 2000 - 2003 he was country coordinator in The Hague for West-Africa. From January onwards he has been director of democratisation in the OSCE mission in Kosovo, in charge of central and local government programmes, civil society programmes and Media development.

Gerrit-Jan Wolffensperger (Netherlands) studied Economics and Law and has had a large variety of functions. He worked as photographer, journalist, lecturer of Law at the University of Amsterdam and alderman of Amsterdam. After that, Gerrit Jan Wolffensperger became member of parliament and later chairman of his parliamentary party (D66), from 1994 to 1997. His last public function was chairman of the Netherlands Broadcasting Service, which he practised from 1998 to 2003. He has published several (legal) articles and is also a member of the Council of Journalism and chair of the World Press Photo Foundation.

LIST OF PARTICIPANTS

1. **Steven Assies**, programme coordinator, Press Now
2. **Eugenia Benigni**, political and media officer, OSCE Centre in Dushanbe
3. **Arjen van den Berg**, senior policy advisor, Security Policy Department, Netherlands Ministry of Foreign Affairs
4. **Roland Bless**, senior advisor to OSCE Representative on Freedom of the Media
5. **Olga Bondar**, programme coordinator, Press Now
6. **Sarah Broughton**, head of Media Development Unit, OSCE spill-over Monitor Mission to Skopje
7. **Dessislava Damianova**, programme coordinator, Press Now
8. **Bart Dijkstra**, director, Free Voice
9. **Krzysztof Drzewicki**, senior legal advisor to the OSCE High Commissioner on National Minorities
10. **Daan Everts**, Netherlands Permanent Representative to the OSCE, former head of OSCE Missions in Albania and Kosovo
11. **Barbara Groenland**, coordinator communications and PR, Press Now
12. **Miklos Haraszti**, OSCE High Representative on Freedom of the Media
13. **Louis Heinsman**, international relations, Netherlands Public Broadcasting
14. **Anke Heltzel**, intern, Press Now
15. **Adrienne van Heteren**, development director, Institute for War and Peace Reporting (IWPR)
16. **Vera Illés**, programme manager Eastern Europe/ CIS, Management and Media Academy/ Free Voice
17. **Wilco de Jonge**, director, Press Now
18. **Zurab Khrikadze**, senior programme assistant in freedom of the media issues, OSCE Mission to Georgia
19. **Jos Kösters**, executive director, Netherlands Helsinki Committee
20. **Taras Kuzmov**, executive director, Charter-4; consultant Thomson Foundation
21. **Jan ter Laak**, senior advisor, Netherlands Helsinki Committee
22. **Yasha Lange**, executive secretary, Media Task Force, Stability Pact
23. **Richard Lucas**, former director general of RTK, BBC consultant for Bosnia and Herzegovina
24. **Yevgenia Manro**, media expert and journalist; co-author of the Press Now report “Media Development by OSCE Field Missions”
25. **Regan McCarthy**, Ph.D., former director, Department of Media Affairs and senior advisor to Head of Mission, OSCE Mission to Bosnia and Herzegovina
26. **Drusilla Menaker**, development director/media advisor, IREX Europe
27. **Roeland Muskens**, reporter
28. **Rita Naseniec**, media officer, OSCE Office in Podgorica
29. **Boris Navasardian**, president, Yerevan Press Club
30. **Katrin Nyman Metcalf**, associate professor of Public International Law at Riga Graduate School of Law; former head of legal department, Independent Media Commission/Communications Regulatory Agency in Bosnia and Herzegovina

31. **Peter Palmer**, former media development officer, OSCE Mission to Croatia; co-author of the Press Now report “Media Development by OSCE Field Missions”
32. **Vladimir Pryakhin**, head of the OSCE Office in Yerevan
33. **Jan Herman van Roijen**, chairman of the Netherlands Helsinki Committee
34. **Nevena Ruzic**, freedom of the media coordinator, OSCE Mission to Serbia and Montenegro
35. **Albana Shala**, programme coordinator, Press Now
36. **Mathilde Smit**, intern, Press Now
37. **Joël Tabury**, attaché, Belgian Ministry of Foreign Affairs
38. **Mark Thompson**, independent consultant; co-author of the Press Now report “Media Development by OSCE Field Missions”
39. **Milan Trivic**, director, Bosnia and Herzegovina TV
40. **Gerrit Valk**, chairman of Press Now
41. **Johan te Velde**, head of democratisation unit, OSCE Mission in Kosovo
42. **Marga Verheije**, advisor, Warner
43. **Wilbert Willems**, board member, Press Now
44. **Gerrit-Jan Wolffensperger**, former chairman of the Netherlands Broadcasting Service; Press Now consultant

LETTER OF THE OSCE HIGH REPRESENTATIVE ON FREEDOM OF THE MEDIA

**Organisation for Security and Co-operation in Europe
The Representative on Freedom of the Media
Miklos Haraszti**

Vienna, 27 June 2005

165/05

To the participants of the seminar “The Role of OSCE in Media Development”

Dear organizers, dear participants

It is with vivid memories that I recall the seminar in The Hague 16 June 2005. I would like to take this opportunity to extend my gratitude to all involved.

I would like to once again stress that I found the discussion most stimulating and the topics debated very far sighted. I felt particularly lucky to have the findings of experts assessing media development work done by the OSCE presented in such a condensed manner. The practical value of this meeting can not be overestimated. My special thanks go to Regan McCarthy and Mark Thompson for their moderating of the event.

I would also cordially like to thank the Netherlands Helsinki Committee and the Dutch Foreign Ministry for their efforts to make this event happen. Last but not least my thanks go to Press Now, which has proven over and again to be a true partner in our joint endeavour to help media develop.

Sincerely yours



Miklos Haraszti

Annex

Organisation for Security and Cooperation in Europe Mission to Bosnia-Herzegovina Department of Media Affairs

Summary of the Report

MEDIA REFORM IN POST-CONFLICT BOSNIA AND HERZEGOVINA (1996-2001)

**Full report submitted by
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Summary of Activities 1996-2001

1. ORIGINS AND MANDATE

The OSCE Mission to Bosnia and Herzegovina was established in December 1995, immediately following the signing of the General Framework Agreement for Peace (GFAP). The peace agreement, also known as the Dayton Peace Accords, formally marked the end of hostilities in Bosnia and Herzegovina. The OSCE Mission to Bosnia and Herzegovina (OSCE BiH) is mandated by Annex 3 of the GFAP and has been operating throughout the country for almost ten years.

The Department of Media Affairs (DMA) began operating in 1996 as the Media Development Office, with activities tied to the major overall responsibility of the OSCE Mission to Bosnia: the establishment and conduct of free and fair elections. The initial aim of the OSCE's media reform work was the development and protection of free media, that is, the print and electronic sector in which the press responsibly and accurately report news, distinguish news from editorial and opinion, and exercise their craft without fear of harassment or threat from political or criminal forces.

Goals of the department were refined over the six-year period of its existence (1996-2001). In its first two years, OSCE BiH media efforts focused on: ensuring that journalists received effective training and adequate resources to conduct their work; promoting inter-entity communication; making sure that accurate and timely news and information were made available to all constituent peoples in Bosnia in order for them to make informed voting choices; and developing licensing mechanisms and a regulatory framework for electronic media in Bosnia.

While the need for media reform remained important both in

its own right and in fulfilling many of the Mission's mandates in elections, democratization, human rights, and regional stabilization, an internal evaluation process in late 1998 concluded that MDO was not uniformly effective in its work nor was it adapting to changing conditions in the media landscape. As a result, it was re-named and re-organized under new leadership effective January 1999 and operated with greater focus and expanded remit from that point forward.

In next few years the OSCE Department of Media Affairs continued the work begun in 1996 and expanded its mandate to: promote the protection of journalists; develop an economically viable mixed-media sector comprised of public and private outlets; create mechanisms, procedures and conditions (including self-regulation of the press) to track, promote and ensure fair and balanced reporting in all media without fear of harm from political, official or criminal elements; develop and promote professional media standards and conduct; and develop laws and regulations to protect free speech, the right to know, confidentiality of sources, and for protection against defamation (libel). This remained its remit until DMA closed its doors in December 2001 having met its stipulated objectives.

2. MEDIA CONTEXT AND PROBLEMS

In 1996 OSCE BiH was confronted with a complex media scene operating in a weak central state government and two Entity governments created by GFAP: the Federation and the Republika Srpska (RS). Like all other sectors of Bosnian society, Bosnian media also had to cope with the transition from a Communist government and centralized economy to a

functioning democracy with a dynamic market economy in the aftermath of a catastrophic war.

After the signing of the Dayton Peace Agreement, Bosnia's predominantly public media faced formidable obstacles to media reform. They struggled against official and political party pressure and censorship as well as profound self-censorship, byzantine regulatory structures, inadequate legal protections of basic press freedoms, economic dependence on editors and publishers tied to nationalist political party power structures, oppressive debt, systemic corruption, inflated levels of staffing, historical and renewed ethnic prejudice, and the "old school" of thinking about finances, management and production in both print and electronic sectors.

Parallel to this large public media sector, newer private and independent electronic media struggled to co-exist in an environment in which limited resources for operations, advertising, infrastructure development, and important journalistic and editorial functions (especially in news gathering and reporting) were essentially in the hands of public media patrons, i.e., the local governments. Further, the combined public and private electronic sector had more radio and television stations than any other country in Europe, providing a 17,500:1 ratio of population to outlets that was 13 times greater than the average for developed European nations. With more than 200 outlets in an area the size of Ireland, there were simply too many radio and television stations.

The print sector suffered under different burdens: with too few outlets (and none indigenous to BiH serving the Croat communities), high production costs inflated by corrupt monopolies controlling printing and paper supplies, high purchase costs relative to local income, and poor and unreliable distribution networks (which were non-existent between entities), the print sector was fiercely competitive

and under-functioning. Yet it served as the only source of serious investigative reporting in the country and thus served an essential role in post-conflict reconstruction of a civil society.

The Bosnian media space in the immediate post-war period was therefore economically artificial and ultimately unsustainable. Cluttered with redundancy and poor prospects for long-term financial viability, this environment was dangerously coupled with political pressure exerted upon media by local authorities. Intimidation of journalists remained commonplace, with more than 90 percent of all journalists in Bosnia reporting political pressure from officials or their surrogates on a regular basis even several years (1999) after the Peace Accords were in effect.

3. OSCE MEDIA DEVELOPMENT: PRIORITIES AND ACTIVITIES **Media Development January 1996 to December 1998**

In the period of 1996 to 1998 the OSCE media efforts were administered through the Media Development Office. The highlights of MDO's work during this period included:

- **Establishment of Free Elections Radio Network (FERN)** in 1996 under the leadership of the Swiss OSCE Chairman-in-Office. Through support made available at a Donor's Conference in 1997, Radio FERN was established to operate country-wide during pre-election campaign periods to provide accurate news to voters. It slowly increased its broadcast period and range, becoming by 1998 the only inter-entity radio network to provide professional, multi-ethnic, and balanced information to educate voters about election-related issues and candidate platforms.
- **Training programs** for journalists were launched and conducted on a bi-monthly basis throughout the country.

Over two years, bi-monthly day-long programs brought journalists from all ethnic groups together and provided them with expert technical, editorial, and journalistic assistance.

- **Monitoring of local media during election periods** was inaugurated throughout Bosnia in 1997 to track and identify abuses of media and messages inciting ethnic divisions. Pilot efforts in media monitoring were launched in early 1997 for the Republika Srpska National Assembly special elections under the banner of the Media Experts Commission (MEC). The early (and criticized) MEC efforts would serve as an incubator to the sophisticated and well-regarded elections media monitoring later conducted by the MEC through 1998. The MEC expanded its efforts to also investigate alleged abuses of journalists' rights and regularly reported findings to media and elections watchdog groups. As a result of the highly successful MEC efforts in 1998, its recommendations were incorporated into the goals and activities of the Mission's media development efforts from 1999 on. Further, in 1999 the equipment and resources, methodology and protocols as well as selected staff were turned over to the newly-established Independent Media Commission (see below) for implementation in election periods going forward.
- **Creation of the Independent Media Commission (IMC)**, established in 1997 in cooperation with the Office of the High Representative (OHR) to ensure transparent licensing and adherence to international standards of practice for broadcast media. While co-created with the OSCE, the IMC operated under the auspices of OHR from 1998 to 2002. As of 2002 it operated under the auspices of the BiH State government and is now called the Communications Regulatory Agency (CRA/RAK), responsible for licensing of

electronic media and regulation of broadcast transmission in BiH.

In addition to evaluating the performance of its own media efforts in this period, OSCE also assumed a proactive role in assessing its relationships with its partners in the international community with the aim of developing an effective, cooperative and non-duplicative division of labor among them regarding media reform and development. The scope and complexity of the problems that needed attention made it useful and timely to restructure these relationships to the fullest extent possible. In that light, an informal agreement was reached among the major IC bodies (OSCE, OHR, and EC, the quasi-local IMC, as well as several international NGO's) to assume distinct but mutually supportive roles in key areas of media development. Among these was an agreement between OHR and OSCE that in media development efforts, OHR would lead on television, the development of the public broadcast sector, and the continued development of the regulatory laws and institutions governing conduct of electronic media. OSCE would focus on radio and print sectors; the protection of journalists; the development of a viable independent and commercial media sector; the development of laws (in cooperation with OHR) to protect freedom of expression and other "media" laws; training of journalists, editors, legislators, public officials, judiciary members and the police on journalistic conduct, relations with the media and implementation of laws. Further OSCE and the IMC agreed to work jointly on media monitoring during elections and the development of self-regulatory mechanisms and guidelines for and with the press. Numerous other cooperative ventures were implemented with other organisations along the same principles of "no competition, no repetition" promoted in 1999 by OSCE BiH.

Media Development January 1999 to December 2001

As part of continuing initiatives the Department of Media Affairs (DMA) established four sub-programs designed to organize its efforts in media development and foster development of an independent, diverse and economically viable radio and press sector in Bosnia. These were:

1. MEDIA DEVELOPMENT

A. Radio FERN/ “100% BiH”: Following the initial success and the achievement of Radio FERN’s original aim for election periods, the Swiss Government, which owned the FERN transmission system, joined OSCE to re-evaluate the role and aims of Radio FERN. After lengthy deliberation and many discussions with FERN donor states, OSCE and the Swiss Government agreed to take FERN through what ultimately became a two-phase transition designed to make FERN the first and only indigenous, nationwide broadcaster in BiH. In 1999-2000 Radio FERN was established as an indigenous “Citizen’s Association” (i.e. non-profit) under the sponsorship of the prominent multi-ethnic association, Circle 99, and through which a Board of Directors was established for this project including Circle 99, OSCE, and the Swiss Government. OSCE continued to provide oversight, space, and other resources for FERN. Editorial control remained with the General Manager and his executive team. FERN was then re-organized to become a 24-hour/365-day broadcaster; its format was changed to a speech-based and program-based platform as a way to eliminate competition with struggling music-based local radio stations; its transmission network was expanded (with assistance from the US Government) to cover the entire country; a network of news stringers and reporters was established in every region of BiH; a digital broadcasting system -- the first in BiH -- was introduced through the support of the European Commission and the

technical expertise of Swiss consultants; and its staff became entirely local with the exception of the Canadian General Manager who was brought in to introduce new technologies, programming and broadcasting techniques. Within one year, Radio FERN had won several awards in both entities and within two years was ranked within the top three stations in every market in BiH. It was not only popular; it was trusted to provide fair and balanced news and programming. In 2001, it was clear that despite its popular success, economic realities in BiH made it obvious that FERN’s hopes of becoming economically viable as an independent broadcaster were impossible. Thus, FERN’s founding Board concluded that Radio FERN’s legacy could best be achieved through its transition into the newly created PBS. Having become both a popular and trusted source of programming and news throughout Bosnia, the OSCE, OHR and the Swiss Government as well as the Citizens’ Association “FERN” and the PBS Board agreed Radio FERN would become the flagship station of PBS radio. Both the technical advances and the programming improvements achieved by Radio FERN made this transfer ideal for PBS: FERN afforded PBS fully operational, successful and widely accepted creative programming expertise (more than half of the FERN staff moved to the new BH Radio 1) as well as technical infrastructure and countrywide footprint, with no additional investment needed. Thus, after five years of serving BiH as a private radio station, its progeny, BH Radio 1, was able to successfully launch on 7 May 2001, thereby inaugurating the new PBS of BiH.

B. Small Grants Program: Beginning in 1999, the DMA launched what was to become one of its most highly effective initiatives: a **Small Grants Program**. Through this program, radio and print media outlets (and on occasion,

television outlets) throughout Bosnia could apply for grants not to exceed 5,000 DM/KM (approximately \$2,500 US) for the purposes of developing their infrastructure and/or improving their reporting. On occasion, this limit was exceeded to fund joint applications or activities of considerable importance (such as elections-related reporting). Guidelines and application forms were made available on OSCE's website, as well as at each of the 5 regional centers and 30 field offices of the OSCE. In each of the three years in which small grants were made by the DMA, on average 40 grants per year were awarded, primarily to radio and press outlets throughout Bosnia. Two to three rounds of grants were announced each year to promote wide participation by Bosnian media. A committee comprised of the OSCE regional and head office staff selected the grantees. The OSCE Press Office announced the awards publicly. During the three-year life of this program, DMA awarded 120 small grants totaling \$485,769. Beginning in the last quarter of 1998, 10 grants were awarded, followed by 40 grants in 1999, 48 grants in 2000 and finally, 22 grants in 2001, closing out the small grants program. These programs were highly effective in funding small but essential improvements in local broadcasting and/or publication capacity; in encouraging elections-based reporting; in promoting inter-ethnic and cross-entity cooperation among outlets; in providing print or radio coverage to areas and communities without them; in helping the public to understand the civic role of and the price paid by journalists in reporting on corruption, war crimes, or other taboo subjects; in promoting transparent operations; in developing accurate and in-depth reporting on under-reported issues (such as refugee return and disabled veterans); and in promoting transparent and fair advertising practices (such as standard rate cards).

C. Commercial Viability of the Independent Media Sector: In addition to (and partly as a result of lessons learned from)

the Small Grants Project, in late 1999 the DMA supported the development of a network of independent and viable radio stations throughout Bosnia known as **BORAM** (a local acronym for Bosnia-Herzegovina's Radio Marketing Network). Designed to be a voluntary and self-sustaining cooperative of the most professional independent radio stations throughout Bosnia, 24 stations from both entities took more than a year to create a shared agreement to develop joint marketing and programming (in news sharing and in cultural programming such as special concerts or sports events). This agreement positioned BORAM to become a launch pad for a viable independent radio sector in Bosnia. BORAM became a means by which stations could co-develop and share specialized programming; avoid competition in saturated areas; use their collective weight and audience share to obtain competitive rates for ads and ad revenues; establish their own brand as a "BORAM station", akin to a seal of approval and a means to distinguish themselves in a glutted market; and purchase rights as a network to use, share and broadcast licensed and/or copyright protected programming. Initial planning and technical support were provided by Internews. Subsequently, BORAM was directly established by OSCE which developed the terms, established the legal non-profit entity known as BORAM as well as the written contract for stations' approval, sponsored planning meetings, and funded the first two years of the BORAM operation before operating as an independent company run by national staff. After its successful transition to operate as a private cooperative, BORAM received support from the European Union for expansion of its services in 2002.

D. Support for Rural Journalists: In order to provide rural journalists in Bosnia with access to reliable, independent information resources, DMA initiated a program in 1999

that would offer such journalists and media outlets access to news wire services, web sites and databases of information from around the world. As a result of this initiative, DMA established nine **Journalists' Research Banks** which provided computers and paid for Internet access (usually via long-distance phone calls) made available through OSCE Reading Rooms/Political Resource Centers. These JRB's were also available for student use during specific periods each day.

2. PROTECTION OF JOURNALISTS

After the general elections in the Fall of 1998, the political pressure upon the media exerted by the dominant nationalist parties increased dramatically and became increasingly intolerable to both journalists and the international community. By mid-1999, the DMA was receiving so many complaints that it conducted a survey of journalists in Bosnia to determine the actual level and types of pressure. The shocking results of this survey – including the finding that more than 75% of journalists reported serious threats on their persons, families or outlets from political and government officials and/or the police -- led DMA to establish a set of innovative responses to assaults on journalists and media freedom. These policy and program initiatives included:

A. The FreeMedia Helpline was established in November 1999 to ensure that an actionable record of threats, harassment and intimidation of journalists existed and that all verifiable threats resulted in swift response and protection of the journalists threatened. The Helpline was launched with a substantial campaign -- Progovorite! Sada Ja Vrieme (Speak Out! Now Is the Time) which provided all media outlets and journalists' associations with posters, wallet-sized information cards for use in an emergency, and radio and print PSAs announcing the program and how

journalists and citizens could use it. In the two years in which Helpline operated under the OSCE's auspices, more than 250 verified cases of interference - all disturbing, some quite severe - were reported. All verified cases resulted in intervention from the OSCE and/or other local and/or IC agencies. Thus, the FreeMedia Helpline became the only hotline in the world that directly intervened at the time of threat - unless the journalist who filed the report specifically requested no action. Fewer than 10 percent of reported cases were found to be false or unverifiable. Quarterly reports of findings were made public through the Mission's Office of Public Information and its website. Within one year, the incidents of verifiable harassment, threat, and harm were reduced dramatically in large measure because significant breaches of journalists' rights were made public as were the interventions provided and the sanctions imposed. Interventions ranged from the mild to severe, depending on the frequency, harm, and position of the perpetrator (e.g., from a call to the offending party to removal from office) and the needs of the journalist (e.g., from legal counsel to safe houses). The effectiveness of the OSCE's FreeMedia Helpline was in large measure a result of the specific role and mandate of the OSCE BiH, that is, a program of a principal Dayton implementing body with specific powers in specified area(s) such as elections, but not overly-broad powers (such as OHR's protectorate authority). In this regard, the Helpline was viewed by journalists as a powerful protector and a genuine service for protection of media freedom and not a "self-interested activity of the international protectorate" in Bosnia. The methodology and aims of the FreeMedia Helpline were carefully documented and can be replicated in other post-conflict and transitional democracy settings. While the methodology and interventions can be adopted and adapted to new settings, the specific sanctions used in Bosnia may

not be available in other settings as a result of different mandates for the implementing body; however, the methods, criteria, and reporting procedures developed by the Helpline form a solid basis for evaluating, monitoring, tracking and reducing infringements on media freedom and journalists' rights. For the Helpline to succeed in other post-conflict situations, the implementing body should have a powerful mandate and be independent from the chief enforcement body of the international community.

B. The Special Ombudsman on Media was created to concentrate on media-related issues within the work of the Federation Ombudsmen's office. The "Media Ombudsman" monitors and intervenes in cases where the rights of freedom of expression and movement of media professionals have been violated or in any other policy or legislative matters related to media which the Ombudsman delegates to this office. While first established in 2000 in the Federation Ombudsmen's office, this position was established by OSCE in 2002 in the Ombudsman's Office of the Republika Srpska as well. Both offices are now supported by local government.

C. Police/Media Relations: As a result of a series of meetings between IPTF officials, journalists, editors, and representatives of journalists' associations to develop a better understanding of the legal rights and responsibilities of reporters and police in the respective to the conduct of their work, OSCE drafted two documents - *Police Guidelines for Dealing with the Media and Journalists' Guidelines for Dealing with the Police* - designed to expressly state the rights and obligations of each and to foster a more positive functional relationship between the two groups. These two documents were widely distributed by OSCE and IPTF - every media outlet and police station throughout Bosnia was given these documents as laminated posters; IPTF

required display of these guidelines in every police station in Bosnia as well. Further, book size and wallet-size copies of these documents were made available to journalists and police (as well as any member of the public) as a reminder of their mutual rights and responsibilities. The principles contained in these guidelines are consistent with local laws and international standards.

3. MEDIA PROFESIONALISM

To assist journalists and editors to understand and adopt the highest international standards of journalistic, editorial, ethical, legal, and technical media activity, the DMA established a number of programs to foster the professional practices of both journalists and editors. These included:

A. Throughout the three-year period from 1999 to 2001, DMA continued to provide regular and increasingly more sophisticated and specialized **Training for journalists, editors and owners of media outlets** as well as for NGO and government officials having to deal with the media. Initially, these programs focused on specific skills such as news reporting or differentiation of news and "op-ed" pieces. As practices improved, the DMA's training sessions focused increasingly on specialty reporting (such as investigative reporting and photo-journalism) and on professional issues such as the operation of effective and representative journalists associations, review and discussion of media standards and laws in development, sound business practices to promote fiscal solvency in media, and improvement of relations between media and police and media and government bodies (see **Spokesperson's Training**, below) in order to promote fair and accurate reporting. In 1999, the DMA also invested in the long-term development of sustainable and independent media in Bosnia through its **Media Management Training Program**. The purpose of this

training program was to provide select radio outlets (24 BORAM member stations) with the skills to develop an effective marketing plan, to plan and sustain local programs, to attract loyal audiences and to help develop a “new generation” of Bosnian media managers who will be able to respond to the new demands of the Bosnia media market. OSCE also developed an **Inter-Entity Training Program** which offered a two-week program on investigations and effectively reporting on corruption; and a training program on **Political Reporting** launched during the lead-up to the national elections in November 2000. These two specific training programs for journalists focused on issues pertaining to self-protection and responsible practices in reporting, especially regarding corroboration of documentation.

B. As part of a larger Mission goal to promote transparency in government, the DMA organized a **Spokespersons’ Training Program** aimed at supporting the development of press and public relations capacities at the State, Entity, Cantonal and municipal government levels throughout Bosnia. In addition, the DMA assisted UN/IPTF in providing training to Spokespersons and Public Information Officers of Police Ministries at the Entity and Cantonal levels. This work was launched in early 2000 and continued through the close of DMA in December 2001. After that time, additional support to local Spokespersons was provided by the OSCE BiH Democratization Department.

C. While the OSCE worked to develop economic self-sustainability and editorial integrity in independent media, it also assisted in fostering professional standards among journalists themselves. A **Press Code for Bosnia-Herzegovina**, drafted by the DMA in 1999 in cooperation with the IMC and the Press Council Working Group was adopted by all journalist associations in Bosnia in April 1999. This

Code outlines acceptable standards of professional conduct for journalists in Bosnia. Based upon this Press Code, The IMC/CRA and the OSCE assisted journalists’ associations to develop a system for self-regulation of the press and by the press. The associations had envisioned this as a Press Council, the structure of which was established in 2000. The OSCE supported and financed the work of the Press Council Working Group that was composed of members of the five Journalists’ Associations operating in BiH at the time, with the IMC and the DMA in advisory capacities. These Journalists’ Associations adopted, with some modification, the Press Council Statute that was drafted by DMA and recommended by the Working Group in 2000. This document outlined the Council’s legal status, mandate, structure, composition, role, and case referral procedure. An official launch of the Press Council took place on 21 September 2000. It was decided that the Press Council would consist of 12 prominent members of the Bosnian press and public (6 members each) and an international chairman (Lord John Wakeham, then head of the British Press Complaints Council, served as first international chairman). The Press Council became operational in 2001, and was provided space and its first year of funding by the OSCE.

D. In one sense, all DMA media activities were related to the conduct of free and fair elections. However, the OSCE undertook several activities specifically during elections periods that were intended to improve reporting by the media, thereby improving public understanding of political parties, candidates and their platforms. For the first time in the history of Bosnia, in the 1998 general elections witnessed televised national **Presidential Debates** between all presidential candidates for the Bosnian tri-partite presidency. This activity was organized and funded by the

OSCE and was broadcasted on both Entity broadcasters as well as Radio FERN. Debates between candidates were also broadcasted in the 2001 elections for national offices. Made possible through support from OSCE, these debates were carried for the first time simultaneously on the Entity broadcasters Radio Television Republika (RTRS) and Radio Television-Bosnia and Herzegovina (RTV-BiH). As noted earlier, **Elections Monitoring** by the MEC monitored primarily news and public affairs programming related to elections and responded to complaints of media violations of election rules and regulations as adopted by the PEC and later by the IMC. The aim of the Elections-based media monitoring was two-fold: to ensure that candidates and political parties observed media election rules and that protected rights under these rules were honored by media outlets; and to ensure that media outlets and individual journalists did not violate election-period rules nor show bias or inaccuracy in reporting, whether under pressure or voluntarily during election periods.

4. MEDIA LAWS AND STANDARDS

By 1999, a well-documented and substantial body of evidence had been accumulated by numerous local NGOs and agencies of the international community about the extent and nature of political corruption, resistance to war crimes investigations by official and political bodies, and political party control of official activity. In order to ensure the right to Freedom of Expression, as provided for in the Constitution of Bosnia and Herzegovina, the High Representative's July 1999 Decision required the State and Entity Governments to adopt a **Law on Freedom of Information** and for the Entity Governments to adopt a civil **Law on Defamation (Libel)**. In 2000, after the respective governments indicated that they lacked the resources and the expertise to develop these laws, OHR asked the OSCE to assume responsibility for the drafting of required

legislation and for legislative work with the respective governments to ensure timely adoption of these laws. To satisfy the requirements of the Decision and the request from OHR the DMA established the Media Laws Advisory Group consisting of 13 persons – a Swedish Chairman (an expert in human rights law), six international experts in media law and six local legal and media experts. OSCE's DMA legal staff provided drafts, archives of relevant law, logistical and technical support, and all resources needed for meetings of the Advisory Group and off-site review of drafts. The Advisory Group first undertook the review of **Freedom of Access to Information Act (FoAIA)** and subsequently undertook the review of **Protection Against Defamation** legislation. Each law was drafted by the DMA staff, then reviewed, debated, and refined by the Advisory Group, and issued as a draft version to the local governments and the public for commentary. Each draft law was also presented by the DMA in a series of public information workshops throughout BiH so that judges, lawyers, media personnel and NGOs could understand the implications and applications of these laws. Comments were documented from these sessions, released to the public through the Mission's Public Information Office, and provided to the Advisory Group for consideration. The Freedom of Access to Information legislation was adopted first by the Parliamentary Assembly of Bosnia and Herzegovina in October 2000, and subsequently by the Entity governments in early 2001. The Law on Protection Against Defamation was adopted in the Republika Srpska in May 2001 and (after DMA closed in 2001) was imposed by the High Representative on the Federation in November 2002. With adoption of these laws, Bosnia has met a fundamental requirement for the entrance into the Council of Europe and has ensured that rights to freedom of expression as guaranteed by the Bosnian and Entity Constitutions have been codified in law and have been harmonized across all levels of government.

4. CONCLUSIONS AND RECOMMENDATIONS

In the fall of 2001, local governments adopted new election laws, a requirement for transition from OSCE-run elections to locally-run elections. With the adoption of these laws and with the successful conclusion of the efforts described above, the OSCE Mission to Bosnia-Herzegovina's Department of Media Affairs ended its work with the preparations for the first locally run elections in post-war Yugoslavia. The Mission's slow start in media reform was amply recouped during 1999-2002 before it closed its doors. The DMA accomplished all of its major goals while much of its work endures in BiH and is adaptable elsewhere in the region and beyond.

These accomplishments have broad value to other OSCE Missions, specifically in the Former Yugoslavia, as illustrated by the Media Law Initiative project. In drafting the laws with international and national experts working together side-by-side, conducting public education campaigns about them and successfully urging the governments to adopt the FoAIA and Defamation Acts, the OSCE delivered a set of critical media reform laws that are not only foundational to establishing a framework that advances freedom of expression in Bosnia, but is replicable in the region and beyond.

The DMA also developed a body of work that is not only verifiable and replicable by other Missions, but is marked by innovative and ground-breaking work in a specific number of instances. These include the establishment of the FreeMedia Helpline; the Small Grants Program which promoted diversity and professionalism in a mixed media environment; and Radio FERN, first nationwide multi-ethnic radio in the Balkans and its subsequent transition to become the inaugural radio component of the new Public Broadcast System in BiH.

The foundation of media reform in the radio and print sectors that the DMA established through its own efforts and in cooperation with many other agencies in BiH was accomplished through a negotiated division of labor that initially produced and then built upon the High Representative's decision on media reform in July 1999. That Decision, drafted jointly by OHR and OSCE, proved foundational to media reform efforts in Bosnia and solidified an emerging level of cooperation and collaboration that endured for the remainder of OSCE's media reform efforts through DMA.

Without question in Bosnia, the Office of the High Representative is the 'first among equals' as an implementing Dayton body. While the OHR had the authority to direct and implement all civilian aspects of the Dayton Accords and the Peace Implementation Councils' directives in their interpretation of the High Representative's authority to carry out his duties, the OHR did not always have the necessary resources to implement its decisions. Thus, a partnership was necessary between the OSCE and the OHR. Yet, despite this collaboration, OHR's and the OSCE's activities and style were distinct from each other. Dividing the labor in media reform created an equal footing between the agencies during the critical period 1999-2001 while also creating a distinct contrast between OHR (as the IC agency with the 'big stick') and OSCE (as the IC agency with 'carrots') that is, between an agency with extensive powers and an agency with significant resources in the field. While this style and division of labor in the international community may seem subtle to the reader, it was palpable on the ground. Among other advantages, it permitted the OSCE to serve as a

trusted and powerful advocate for the Bosnian media community and ultimately maximized the use and positive impact of limited resources for media reform. Equally important, because of the partnership OHR and OSCE had established with each other they were able to establish the proper regulatory frameworks (both public and self-regulatory mechanisms) for the electronic and print sectors, complete the comprehensive overhaul of the public broadcast sector into a PBS system and put into place a necessary legal framework for media freedom which adhered to international standards. Neither agency could have done this single-handedly, regardless of mandate or resources.

DMA's work has proven to be durable. Several additional initiatives established by the DMA such as BORAM, the Spokespersons' Training, the Police Media Guidelines and continuing activities to ensure that media laws are adopted and implemented in compliance with the law, among many other initiatives continue to the time this report was issued in 2005.

DMA's work has also proven to be replicable, within context. Notable carryover of DMA's work can also be found in both the general remit and structures of other OSCE Mission efforts in media reform and in specific activities such as media law initiatives. Inspiration and replication can also be found in the activities of several other OSCE Missions' "DMA's" - in Kosovo, Serbia and Montenegro, and Macedonia, among them - which were either directly modeled on OSCE Bosnia's media work and/or have benefited from the program documentation and materials developed by the DMA. This is as it should be, for better or worse, one unstated aim of the DMA was to make its work useable by others.

The overall aims of the DMA - to develop sustainable media institutions, to develop a viable print and radio sector, to

establish legal frameworks to guarantee freedom of expression and the right to know, to establish trustworthy and effective mechanisms to ensure protection of journalists, and to develop and sustain a responsible and informative journalists corps - were all met by the end of 2001. Yet, these remain ongoing concerns that require vigilance, continued resources and support, and progressive improvements over time. However, OSCE BiH's efforts in media reform have provided a solid and enduring foundation for the advancement of this key transitional democracy in Europe. Bosnia-Herzegovina has the operational foundation and legal framework to extend and protect what is undoubtedly the greatest level of freedom of expression in the Balkans today.

RECOMMENDATIONS

1. Media Sector Size

- The electronic and print media sectors in Bosnia are presently experiencing opposite trends, and both need attention. Print media are overly consolidated in the hands of too few owners while electronic media are excessive in number, especially in the public sector. To deal with these distinct problems, we encourage the Cantons and municipalities to terminate their right to broadcast, thereby shifting critical public revenues from duplicative and politically-controlled small media houses to building and sustaining the operation of schools, hospitals, utilities, sanitation, fire, police and services for veterans and the disabled. To encourage diversification on the print sector, we recommend the international community and/or private donors capitalize the establishment of multiple, independently owned and operated outlets for printing and paper supply for newspapers and magazines within Bosnia. We further recommend revision of media ownership laws, described below.

2. Media Ownership

- The State and Entity governments should conduct a review of laws governing ownership of multiple media outlets in order to prevent financial monopolies or political domination of the media. There should be limits on public or silent ownership of multiple media outlets (including cross-format ownership, i.e. print and electronic) and such limitations should be established and codified into law. Thus, we recommend that the State and Entity governments introduce legislation requiring full and transparent ownership of all media – including print media, currently not in the purview of the CRA - that requires annual disclosure of all owners, including silent partners and board members, and that limits ownership across media platforms.

3. Media Freedom Laws

- Adopt and extend the Act on Protection Against Defamation Act by the Bosnian State government as soon as the appropriate legal framework is in place at the State level.
- Adopt specific “Reporter Shield Laws” at the State and Entity levels to further protect confidentiality of journalists’ sources.
- Widely disseminate the “Commentaries” prepared by OSCE BiH pertaining to the Freedom of Access to Information Act and to the Protection Against Defamation Act through the OSCE BiH, relevant NGOs and the respective Ministries of Justice. These commentaries are essential to the proper interpretation and application of these laws by the judiciary and others. These commentaries were previously made available by the OSCE in 2001; however, they were not widely distributed or referenced. Training on the commentaries should be carried out by the OSCE Mission or relevant international or national NGOs such as ABA/CEELI.

4. Information Capacities of Public Bodies:

- Establish and adequately fund the position of Freedom of

Information Officer as required by the Freedom of Access to Information Act. Each ministry at State and Entity levels must establish these positions in accordance with the law. These positions have not been adequately or properly established due to a combination of inadequate resources and confusion about the roles of the FoAIA officers and the role of spokespersons. These positions cannot and should not be performed by the same person or office. The FoAIA officer serves a regulatory function to determine how and to what extent requests by the public for historical and contemporary information held by public persons and/or bodies will be released to the requestor. This is a separate and distinct role and function from that of a spokesperson, who serves to disseminate day-to-day information to the media on the actions, policies and plans of public officials and bodies. Their functions are mutually exclusive if properly understood. Affected government bodies should adequately and separately fund the positions and offices of FoAIA officers, as well as that of spokespersons. Relatedly, government officials at all levels should be informed with respect to the role of the Information Officer required by the FoAIA law. This activity should be carried out by the OSCE Mission’s Democratization Department.

- Educate judges, prosecutors, police and other appropriate government officials on their obligations to enforce the Freedom of Access to Information Act and the Protection Against Defamation Act.

5. Dissemination of Historical Documentation by the OSCE:

- Distribute the archives of the OSCE’s Bosnian Mission Media Law Initiative through the public information office of the OSCE’s Secretariat.
- Distribute this report to other OSCE Field Missions and to other interested parties engaged in post-conflict media reform through the OSCE’s Representative on the Freedom of the Media.

- Post the report on the OSCE's website to make it available to the public.

6. Monitor and Review Status of Journalists

- Monitor the status of the treatment of journalists within Bosnia annually by NGOs and public bodies (such as the Ombudsmen's offices) responsible for the protection of human rights. Formal cooperation and sharing of information, about freedom of expression issues, should be formally extended between the ministries and the respective Entity Ombudsmen's offices, including the State Ombudsmen's office.
- Such information should be provided to recognized human rights advocates such as the Helsinki Citizens Committee to ensure transparency, accuracy and widespread dissemination of findings. The gap in communication and cooperation between government offices and NGOs is notable, not only in Bosnia, but throughout transitional democracies globally. These relationships are key to establishing trust and confidence in the necessary collaborative work between government officials and NGO leaders. This report acknowledges the outstanding work of the Federation Ombudsmen's office as it continues to monitor and annually report on journalists' rights in accordance with the Bosnian Constitution and the Article 10 of the European Convention on Human Rights. This report urges the Republika Srpska Ombudsman's office to formally and systemically report on freedom of expression concerns. Reports on freedom of expression and journalist's rights should also be conducted by international and national human rights organisations.
- The OSCE's Human Rights Department should monitor and report on freedom of expression violations by domestic institutions, including the Courts which currently operate at a nascent stage of development.

- Consideration should be given by international donors, individually or collectively, to provide temporary financial support and oversight for the adoption and implementation of the FreeMedia Helpline by one or more Bosnian NGOs. These NGOs must possess a proven record on advocating for and protecting human rights. The OSCE should provide the historical data and methodology concerning the Helpline procedures for evaluating, tracking and responding to reports of violations of journalists' rights. This approach effectively insures an accurate transfer to and establishment and implementation of a sustainable and an indigenous FreeMedia Helpline.
- Review the implementation of the media laws including FoAIA and Defamation
- Act and the impact of these laws on public discourse by the Offices of the Entity Ombudsmen with input and participation by human rights advocates and civil society actors that could include the BH Press Council, for example.

7. Television Sector

- This report makes no comment on Bosnia's television sector.

GRAPHIC HIGHLIGHTS OF OSCE BIH DEPT. OF MEDIA AFFAIRS PROJECTS (1996-2001)

1996	1997	1998	1999	2000	2001
<ul style="list-style-type: none"> • MDO (Media Development Office) established in December 1995, with 6 staff members • MEC (Media Experts Commission) created - inactive in 1996 elections • MEC Media Monitoring continues post-election • Project to support Independent Media Outlets begins (precursor to Small Grants Program) • Inter-entity Journalists' Conferences held in Federation and RS Radio FERN begins broadcasting 	<ul style="list-style-type: none"> • FERN Donor Conference – one year funding obtained • MEC (Media Experts Commission) launches pilot program for RSNA elections in 1997 • FERN footprint expands to 75% of country • Media Development Officers established in each regional center (5) and Biha? Field Office • Inter-entity Journalists' Conferences continue in Federation and RS 	<ul style="list-style-type: none"> • Inter-entity Journalists' Conferences continue in Federation and RS • FERN donor support - limited carryover for 1998 • MEC re-organized; conducts vigorous monitoring for 1998 elections; establishes rigorous criteria, methods, and referrals process for adjudication. • MASTs (Media Access Support Teams) formed in Regional Centers • Schools for Journalists launched • OSCE sponsors first televised Presidential Debates • Small Grants Program established • Inter-entity Press Distribution Program begins • All other programs continue 	<ul style="list-style-type: none"> • Press Code drafted by OSCE/IMC and adopted by journalist associations • MEC transferred to IMC (December '98-February '99) • July 1999 High Rep's Decision on Media Laws, PBS, more. • FERN re-organized to become "talk radio"; footprint expanded to 100% of BiH • BORAM started • FreeMedia Helpline begins operating in November • OHR requests OSCE draft media laws • Media Law Advisory Group established • Journalists' Seminars begin • FERN establishes digital broadcast capacity; first in BiH • FERN receives numerous awards for best station/best reporting • All other programs continue 	<ul style="list-style-type: none"> • Police/Media Guidelines adopted and distributed • Specialty Training (financial reporting / elections reporting / political reporting / photo-journalism) begins • Public Release of FoAIA (June) • Adoption of State-level FoAIA (October) • Implementation of State-level FoAIA begins • Press Council Statute Adopted • Anti-Corruption Training for Journalists (June/Sept) • Media Management Training begins • Press Council Statutes drafted by OSCE and adopted by five journalists' associations • All other programs continue 	<ul style="list-style-type: none"> • Public Release of Defamation Act (February) • Press Council begins operations (February) • Spokesperson training and Press / Public Information capacity-building in Governments and Police begins • FERN transferred to PBS (May) BH Radio 1 (PBS radio) begins broadcast (May) • RS adopts FoAIA (May) RS and Federation adopt Defamation Act • FreeMedia Helpline transferred to OHR (December) • DMA closes 31 December 2001

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