United States Mission to the OSCE

Session 16: Freedom of the Media; Freedom of Expression

As prepared for delivery by Ambassador Richard Williamson
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Mr. Moderator,

Freedom of expression and freedom of the media are critically important in a free and democratic society. One of America's greatest jurists Oliver Wendell Homes wrote nearly 90 years ago that "the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in that competition of the market…(W)e should be eternally vigilant against attempts to check the expression of opinions."

The Organization for Security and Cooperation in Europe was recognized the wisdom of this proposition and all OSCE participating States have made commitments to protect freedom of expression and freedom of the media. Nonetheless, within the OSCE region intimidations and censorship of free expression and of the media persist. We cannot be indifferent to such transgressions. As Elie Wiesel has written, "Indifference, after all, is more dangerous than anger and hatred." And Andrei Sakharov stated in his Nobel Peace Price lecture, "The Helsinki Accords confirms the principle of freedom of conscience. However, a relentless struggle will have to be carried on if the provisions are to be realized in practice." That important struggle continues.

Mr. Moderator, today's session is first and foremost, a review of implementation of OSCE commitments on freedom of expression, including for members of the media. With that in mind, we are compelled to address, at least briefly, the dangers that journalists continue to face, throughout the OSCE region, in performance of their professional responsibilities.

In little more than a year, such esteemed journalists as Anna Politkovskaya in Russia, Grégoire de Bourgues in Kazakhstan, and Ogulsapar Muradova in Turkmenistan, have been brutally murdered, as they sought to speak truth to power, to shed light on the corrupt. These are not isolated incidents. In the Russian Federation alone, 17 journalists have been murdered since 2000 and a total of 47 since 1991.

The murder of Hrant Dink in Turkey is another tragic case.

Sadly, the United States has not been totally immune from acts of violence against journalists. On August 2, Chauncey Bailey, an editor for a California newspaper, the Oakland *Post*, was gunned down in broad daylight in front of a courthouse in Alameda, California. Mr. Bailey had

been investigating alleged corruption in local businesses. This could be the first time in more than 20 years that a journalist was killed in the U.S. in connection with his reporting.

Although a suspect was quickly arrested and has since been charged, Mr. Bailey's murder demonstrates the acute dangers that many journalists face in efforts to report the news. When journalists are murdered, it is critical that the investigations into their deaths be conducted fairly and transparently, in a way that generates confidence in the investigations and their outcomes. When governments fail to do so, they effectively imply that it is "open season on journalists."

Unfortunately, there are many ways in which freedom of expression for members of the media can be restricted, curtailed or impeded. And, not surprisingly, many of the tools used to restrict freedom of expression in the print or broadcast media are now being used against those who would disseminate information on the Internet.

For example, access to YouTube was temporarily blocked in Turkey for several days this March until YouTube agreed to remove four videos that were considered "insulting" to Turkey's founding leader, Mustafa Kemal Ataturk. Subsequently, a new law was adopted on May 22, according to which it will be a punishable criminal offense to "insult the memory of Ataturk." Admittedly, there is a balance to be struck; states can and should ban speech that clearly incites violence. Anything below that standard, however, has the effect of criminalizing opinion. We naturally oppose the application of laws criminalizing opinion to communications over the Internet. The continued resort by the Turkish Government to charges under Article 301 have a chilling effect on free speech -- even if no one is eventually convicted of the charges.

In Kazakhstan, Minister of Information Yemukhamet Yertysbayev reportedly warned last year that "[t]hose who think it's impossible to control the Internet can continue living in the world of illusions." This appears to be more than an empty threat: on January 22, Kazis Toguzbayev received a two-year suspended prison sentence for "infringement on the honor and dignity of the president" on a blog site. Such laws undermine freedom of expression, particularly with respect to government policies and personnel, and we urge Kazakhstan to repeal article 318 of its criminal code.

In Belarus, the government maintains a monopoly on telecommunications and has periodically blocked access to websites that support the opposition. This development takes place against the backdrop of a government directive in February requiring the owners of Internet cafes to engage in intrusive monitoring of computer use. While there are legitimate law enforcement uses for such data, Belarus lacks an independent judiciary to ensure law enforcement authorities do not abuse their access to this data, with the consequence that the new directive may intimidate Internet users as well as those who might seek to make Internet access more widely available. The United States is particularly concerned about Andrei Klimov, who was arrested on April 3 in connection with an article advocating political reforms he was accused of publishing on a website, then sentenced in a closed trial to two years in prison. Unfortunately the control of the media in Belarus is in no way limited to the internet. The government continues to force the closure of independent media by denying them registration and legal addresses, by prohibiting state companies from advertising in independent newspapers, and by preventing state-run stores

from selling all but a few independent papers. The government continues to impose harsh fines on print and electronic media that criticize it.

In Azerbaijan, the U. S. is concerned about the negative trend regarding media freedom since last year. Since then, the government has imprisoned seven journalists for the content of their writings. Two websites have been blocked because of criticism of the government's economic policies. In January, Bakhtiyar Hajiyev was arrested and held for 12 days for posting an article on his website criticizing increases in the price of energy and municipal services. The United States urges Azerbaijan to halt this negative trend, including by release all journalists currently imprisoned for the content of their writings.

We are concerned by several cases in the Russian Federation that suggest "hate-speech" laws are being abused to limit freedom of expression, including on the Internet. Journalist Boris Stomakhin was convicted under the hate speech law for criticizing the Kremlin's policies in Chechnya. The threat of such prosecutions only stands to further limit freedom of expression in a country where controls over the broadcast and print media are subtle but nonetheless acute. Similarly, in Azerbaijan, journalist Rafiq Tagi and editor Samir Sadatoglu were sentenced for "incitement to religious hatred" for publishing an essay discussing Islam and Christianity.

At the same time, we are concerned by cases where hate speech or anti-extremism laws are used to punish disfavored or merely controversial speech. We urge all OSCE participating States to ensure that while they combat intolerance and incitement to violence, they give equal attention to respecting freedom of expression, including the right to hold opinions without interference, and the free flow of information, including over the Internet.

More must be done, however, to respond to violent hate crimes. Governments must vigorously prosecute such crimes committed against persons, communities, and their property. We encourage OSCE participating States to tackle this injustice.

Since we meet in Warsaw, the city in which the OSCE Office of Democratic Institutions and Human Rights is located, let me close this intervention on freedom of expression and media freedom by quoting Lech Walesa who said, "the Polish Aspirations to freedom will never be stifled." So too throughout the OSCE region we can never let the voices of free people and the exercise of a free media to be stifled. Archebald Macleish wrote during World War II that "democracy is never a thing done. Democracy is always something that a nation must be doing." And for a nation to "be doing" democracy the guardrails of freedom of expression and freedom of media must be respected and must flourish.

Thank you.