

THREATS TO FREE MEDIA IN THE OSCE REGION

HEARING

BEFORE THE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

JUNE 9, 2010

Printed for the use of the
Commission on Security and Cooperation in Europe

[CSCE 111-2-7]



Available via <http://www.csce.gov>

U.S. GOVERNMENT PRINTING OFFICE

76-044 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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June 9, 2010

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 9 a.m. in room 210/212, Capitol Visitor Center, Washington, DC, Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Benjamin L. Cardin, Chairman, Commission on Security and Cooperation in Europe; Hon. Alcee L. Hastings, Co-Chairman, Commission on Security and Cooperation in Europe; Hon. Michael H. Posner, Assistant Secretary, Democracy, Human Rights and Labor, U.S. Department of State; and Hon. Christopher H. Smith, Ranking Member, Commission on Security and Cooperation in Europe.

Witnesses present: Dunja Mijatovic, Representative on Freedom of the Media, Organization for Security and Cooperation in Europe; Sam Patten, Senior Program Manager for Eurasia, Freedom House; and Muzaffar Suleymanov, Research Associate, Committee to Protect Journalists.

HON. BENJAMIN L. CARDIN, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. The Helsinki Commission will come to order. I'm joined, of course, by our Co-Chair, Congressman Hastings, and others on the Commission will be joining us. But today, the Helsinki Commission focuses on the threat to free media in the OSCE region.

Media freedom is inextricably linked to the right to freedom of expression and the free flow of information, fundamental freedoms enshrined in the Helsinki Final Act. This year, we celebrate the 35th anniversary of that historic document. This month marks the 20th anniversary of the Copenhagen Document, which includes provisions addressing a wide range of human rights, including freedom of expression.

Seemingly on a daily basis we receive reports documenting harassment of independent media and journalists by the authorities in some participating States. From burdensome registration requirements and visits by the tax police to the confiscation of entire print runs and imposition of crippling fines, from criminal charges for defamation of individuals, institutions or the state, free media faces myriad threats and challenges today.

In an alarming number of instances, journalists are targeted for physical attacks and murder. A year ago this month, I chaired a Commission hearing and heard from the widow of Forbes magazine writer and investigative journalist Paul Klebnikov, gunned down in a contract-style killing outside of a Moscow office nearly 7 years ago. According to the Committee to Protect Journalists, of the 52 journalists killed in Russia since 1992, more than a third were principally focused on corruption or human rights. Russia was included in CPJ's 2010 Impunity Index of "countries where journalists are slain, where killers go free."

While Russia is distinct for the scope of anti-press violence, it is by no means alone in the OSCE region. Over the past year journalists have been slain in Turkey, Kazakhstan and Bulgaria. While these investigative journalists paid the ultimate price for their professional endeavors, scores of their colleagues throughout the OSCE region have been targeted for harassment, violent attacks, or imprisonment.

The Commission is circulating a resolution on investigative journalists that we plan to raise at the upcoming OSCE Parliamentary Assembly annual meeting in Oslo, devoted this year to the theme, "Rule of Law: Combating Transnational Crime and Corruption." The Commission is likewise concerned over moves by some OSCE countries to curtail or control the operations of independent media through the adoption of restrictive laws, including those targeting use of the Internet.

For example, in Belarus, a country I visited a year ago, a recently adopted measure on the Internet gives cause for concern given the already tightly controlled media environment there. We are also carefully monitoring recent developments in Ukraine, where there have been growing protests by journalists in reaction to stepped up pressures on the independent media.

Free media play an essential function in a truly democratic society. Not surprisingly, authoritarians and other anti-democratic forces, often target them for particularly harsh reprisals. Our responsibility is to speak out when journalists come under fire, or when governments attempt to clamp down on the right to freedom of expression. Today's hearing is part of the Helsinki Commission's ongoing efforts to draw attention to the plight of investigative journalists and others who place themselves at risk for their work that helps strengthen democracy and human rights.

At a Commission briefing late last year, "Violence and Impunity: Life in the Russian Newsroom," the editor of one of the country's independent newspapers, a professional who had buried a handful of colleagues killed, because of their reporting, concluded his testimony with an impassioned request: that these and similar cases be raised at every opportunity. And that sums up why we're here today—to continue our focus on protecting journalists and the free media. With that, I turn to my Co-Chair, Congressman Hastings.

**HON. ALCEE L. HASTINGS, CO-CHAIRMAN, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. HASTINGS. Thank you, very much, Mr. Chairman. I note Secretary Posner comes in as we proceed. Mr. Chairman, I have a

rather lengthy statement, and I would ask unanimous consent that the full statement be made a part of the record.

Mr. CARDIN. Without objection.

Mr. HASTINGS. And because of the gravity of this issue and the substantial witnesses that we have, I would ask now if Ms. Mijatovic's prepared testimony that she's offering to us will be submitted. And I know the work of Mr. Patten and have read of Mr. Suleymanov. I think we would be better advised if I were to forego any opening statement and allow for questions, and that way, we'll have more opportunity to hear from all of our witnesses we're expecting [inaudible].

Mr. CARDIN. Well, we're certainly pleased to have Secretary Posner with us. Any opening comments that you'd make?

**MICHAEL H. POSNER, ASSISTANT SECRETARY, DEMOCRACY,
HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE**

Sec. POSNER. No, I—just to say I'm delighted to be here, and I very much look forward to hearing from our witnesses on this important topic.

Mr. CARDIN. Well, we're pleased to have the recently appointed OSCE Representative on Freedom of the Media on our first panel, today, during her first visit to the United States since assuming this position. I point out that the OSCE has created this position because of the importance of the free media to our OSCE principles. Ms. Mijatovic brings a wealth of professional experience to her position.

She is an expert on media law and regulation. I would also point out that she has provided important leadership on the promotion of investigative journalism, as well as the protection of freedom of expression and information in times of crisis. Her complete bio is on the outside table, for those to have a copy. It is a pleasure to have you with us. You may proceed.

**DUNJA MIJATOVIC, REPRESENTATIVE ON FREEDOM OF THE
MEDIA, ORGANIZATION FOR SECURITY AND COOPERATION
IN EUROPE**

Ms. MIJATOVIC. Thank you very much. Chairman Cardin, Chairman Hastings, ladies and gentlemen, I am honored to be invited to this hearing before the Helsinki Commission at the very beginning of my mandate, as you already mentioned. I feel privileged to speak before you today. The Helsinki Commission's welcoming statement on the day of my appointment is a clear manifestation of the strong support you continuously show toward the work of this unique office, and I assure you, distinguished Commissioners, that this fact is very much appreciated.

It will be 3 months tomorrow, since I took office as the new Representative on Freedom of the Media to the OSCE. Even though 3 months may sound short, it has proved more than enough to gain a deep insight, and unfortunately, to voice concerns, about the decline of media freedom in many of the 56 countries that today constitute the OSCE.

Although the challenges and dangers that journalists face in our countries may differ from region to region, one sad fact holds true everywhere, the freedom to express ourselves is questioned and

challenged from many sides. Some of these challenges are blatant, others concealed; some of them follow traditional methods to silence free speech and critical voices; some use new technologies as a way of suppressing and restricting the free flow of information and media pluralism; and far too many result in physical violence and deadly violence against journalists.

Today, I would like to draw your attention to the constant struggle of so many institutions, including your Commission and my own institution, and many NGOs throughout the world struggling to combat and ultimately stop the violence against journalists. I would also like to address several other challenges that I want to place in the center of my professional activities, each of which I intend to improve by relentlessly using the public voice I am now given at the OSCE.

Let me first start with violence against journalists. Ever since it was created in 1997, my office has been raising attention to the alarming increase of violent attacks against journalists. Not only is the high number of violent attacks against journalists a cause for concern; equally alarming is the authorities' far-too-prevalent willingness to classify many of the murders as unrelated to the journalists' professional work. We also see that more and more of the critical speech is being punished with questionable, and, if I may call it, fabricated charges brought against the journalists.

Impunity for the perpetrators and the responsible authorities' passivity in investigating and failing to publicly condemn these murders breeds further violence. There are numerous cases that need to be raised over and over again. We need to continue to loudly repeat the names of these courageous individuals who lost their lives for the words they have written. I am sorry for all those whom I will not mention today; but the names that follow are on the list that I call "the Hall of Shame" of those governments that still have not brought to justice the perpetrators of the horrifying murders that happened in their countries.

The most recent murder of a journalist in the OSCE area, is the one of the Kyrgyz opposition journalist Gennady Pavlyuk. It gives me hope that the new Interim Government of Kyrgyzstan has announced to save no efforts to bring the perpetrators to justice, not only about the murder of Gennady Pavlyuk, but also the murder of Alisher Saipov in 2007.

The Russian Federation remains the OSCE participating State where most members of the media are killed. Paul Klebnikov, Anna Politkovskaya, Anastasia Baburova, Magomed Yevloyev, and many others. We also should not forget the brutal murders of the following journalists, and some remain unresolved even today: Hrant Dink, Armenian-Turkish; Elmar Huseynov; Slavko Curuvija and Milan Pantic, also in Serbia, in 2001; Dusko Jovanovic, in Montenegro, and many others.

Violence against journalists equals violence against society and democracy, and it should be met with harsh condemnation and prosecution of the perpetrators. There can be no improvement without an overhaul of the very apparatus of prosecution and law enforcement, starting from the very top of the government pyramid.

There is no true press freedom as long as journalists have to fear for their lives while doing their job. The OSCE commitments oblige

all participating States to provide safety to these journalists, and I will do my best to pursue this goal with the mandate I am given, and with all professional tools at my disposal.

We also observe another very worrying trend—more and more often, the imprisonment of critical journalists based on political motivations including fabricated charges. Let me mention some cases. In Azerbaijan, Eynulla Fatullayev was sentenced in 2007. Only a few weeks ago, the European Court of Human Rights found Azerbaijan in violation of Article 10 and Article 6 of European Convention on Human Rights. There is only one possible outcome: Fatullayev should be immediately released.

In Kazakhstan, Ramazan Yesergepov, bloggers in Azerbaijan, Emin Milli and Adnan Hajizade, in Uzbekistan, in many other countries. I will continue to raise my voice and demand the immediate release of media workers imprisoned for their critical work. I join Chairman Cardin for commending independent journalists in the Helsinki Commission's recent statement on World Press Freedom Day. These professionals pursue truth wherever it may lead them, often at great personal risk. They indeed play a crucial and indispensable role in advancing democracy and human rights.

By highlighting these murders and imprisonment cases, by no means do I intend to neglect other forms of harassment or intimidation that also have a threatening effect on journalists. Let me just recall that with the heightened security concerns in the last decade, police and prosecutors have increasingly raided editorial offices, journalists' homes, or seized their equipment to find leaks that were perceived as security threats.

Turning to the problems facing Internet freedom, we can see that new media has changed the communications and education landscape in an even more dramatic manner than did the broadcast media in the last half-century. Under my mandate, the challenge has remained the same: how to safeguard or enhance pluralism and the free flow of information, both classical Helsinki obligations within the OSCE.

The digital age offers the promise of a truly democratic culture of participation and interactivity. Realizing that promise is the challenge of our times. In the age of borderless Internet, the protection of the right to freedom of expression regardless of frontiers takes on a new and more powerful meaning.

In an age of rapid technological change and convergence, archaic governmental controls over the media are increasingly unjust, indefensible and ultimately unsustainable. Despite progress, many challenges remain, including the lack of or poor quality of national legislation relating to freedom of information, a low level of implementation in many OSCE member states and existing political resistance.

The Internet fundamentally affects how we live. It offers extraordinary opportunities for us to learn, trade, connect, create and also to safeguard human rights and strengthen democratic values. It allows us to hear each other, see each other and speak to each other. It can connect isolated people and help them through their personal problems.

These rights, possibilities and ideals, are at the heart of the Helsinki process, and the OSCE principles and commitments that we

share. We must find the best way to spread access to the Internet, so that the whole world can benefit from what it can offer, rather than increasing the existing gaps between those who have access to information and those who do not.

Restrict access to information, and your chances to develop will become restricted. Open up the channels of free communication, and your society will find ways to prosper. I was delighted to hear Secretary of State Clinton speak about a basic freedom in her January speech on Internet freedom in the Newseum. This freedom is the freedom to connect. Secretary Clinton rightly calls this freedom, the freedom of assembly in cyberspace. It allows us to come together online, and shape our society in fundamental ways. Fame or money is no longer a requisite to immensely affect our world.

My office is rapidly developing a comprehensive strategy to identify the main problems related to Internet regulation in the 56 member states of the OSCE, and ways to address these issues. I will count on the support of the Helsinki Commission to advance the universal values that this strategy will attempt to extend to those countries where these values are still being questioned.

Whether we talk about Internet regulation, inventive ways to switch to digital while preserving the dominance of a few selected broadcasters, attempts to limit access to information or broadcast pluralism, we must keep one thing in mind—no matter what governments do, in the long run, their attempts to regulate is a lost battle.

People always find ways to obtain the rights that are denied to them. History has shown this over and over again. In the short run, however, it is very clear that I will intervene with governments which try to restrict the free flow of information. Similar to fighting violence against journalists, my office has been campaigning since its establishment in 1997 to decriminalize defamation and libel in the entire OSCE region.

This problem needs urgent reform not only in the new, but also in the old democracies of the OSCE. Although the criminal provisions have not been used in Western Europe for decades, their “chilling effect” remained. Furthermore, the mere existence of these provisions has served as a justification for other states that are unwilling to stop the criminalization of journalist errors, and instead leave these offenses solely to the civil law domain.

Currently, defamation is a criminal offence in all but 10 OSCE countries—my own country, Bosnia-Herzegovina, Cyprus, Estonia, Georgia, Ireland, Moldova, Romania, Ukraine, the United Kingdom, and the United States. Last year, three OSCE countries decriminalized defamation—and I mean Romania, Ukraine, and United Kingdom—and I consider this to be a great success. For a decade, nothing was happening in Western Europe. And this is something that we welcome very much.

Some other countries, such as Armenia, are currently reforming their defamation provisions, and I hope that I can soon welcome the next country that carries out this important and very long overdue reform. Dear Chairman, the above problematic areas—violence against journalists, restrictions of new media including the Internet, lack of pluralism and resistance to decriminalize defamation—

are among the most urgent media-freedom problems that need our attention and concentrated efforts today.

However, we will also not forget about the many other fields where there is plenty of room to improve. Of course, I will not miss the excellent opportunity that we are here together today to raise your attention to the topic that my distinguished predecessor, Miklos Haraszti, has already raised with you, the establishment and the adoption of a Federal shield law in the United States.

As you know, my office has been a dedicated promoter of the Federal shield law for many years. If passed, the Free Flow of Information Act would provide a stronger protection to journalists. It could ensure that imprisonments such as that of Judith Miller and Josh Wolf could never again take place and hinder investigative journalism. But the passage of such legislation would resonate far further than within the borders of the United States of America. It could send a very much-needed signal and set a precedent to all the countries where protection of sources is still opposed by governments and is still not more than a dream for journalists.

I respectfully ask all of you to continue and even increase your efforts to enable the Free Flow of Information Act to soon become the latest protector of media freedom in the United States. And of course, I cannot close my speech without mentioning my home country, Bosnia-Herzegovina. As you know, not only Bosnia-Herzegovina, but also most of the emerging democracies in the Balkans enjoy modern and forward-looking media legislation.

We can openly say that they almost have it all when it comes to an advanced legal and regulatory framework enabling free expression to thrive. But it is not that simple. I use this moment to pose several questions: If there are good laws, then why do we still face severe problems in relation to media freedom? Why do we stagnate and sometimes even move backward? Where does the problem lie? And, more importantly, how can we solve it and move ahead?

What Bosnia and Herzegovina shows us is that good laws in themselves are not enough. Without their good implementation, they are only documents filled with unrealized potential. In countries that struggle with similar problems, we must stress over and over again, without the full implementation of valid legislation, without genuine political will, without a comprehensive understanding of the media's role in a functioning democracy, without the creation of a safe environment for journalists to do their work, and without true commitments by all actors, these countries risk falling far behind international standards.

Apart from unmet expectations and disillusioned citizens, we all know that the consequences of politicized and misused media could be very serious. In conclusion, let me assure you that I will not hesitate to openly and vigorously remind any country of their responsibilities toward implementing the OSCE commitments to the freedom of the media.

I am also asking you, today, to use this opportunity and send a clear message to the governments of all OSCE countries to do their utmost to fully implement their media legislation safeguarding freedom of expression. The governments have the power to create an environment in which media can perform their unique role free

of pressures and threats. Without this, no democracy can flourish. Thank you very much.

Mr. CARDIN. Well, thank you for your very comprehensive presentation there. We very much appreciate that. We hope you use every opportunity to present your issues, and we would have been disappointed if you had appeared before us without making a request in regards to our shield law.

That was a very well-placed point, that the United States, which takes a great pride in the freedom of our press, in the ability of investigative reporters to operate without intimidation from government officials, there's still progress that we can make. And I think you are absolutely correct. That's an issue that's being carefully looked at, and we hope we will be able to make some progress on the shield law here at the Federal level. Because we do have local shield laws, but we do need a Federal shield law in order to provide comprehensive protection.

In your statement, you mentioned a number of investigative journalists who have been murdered, in regards to their work. And you mentioned Georgy Gongadze. His widow is with us today, and I just really wanted to acknowledge Miroslava Gongadze for being with us today. And it's been 10 years, and the perpetrators have still not been brought to justice. And I know there's an individual story for each one of these investigative journalists who have been murdered, and it's important that the world understand that.

I think one of our challenges is to continue to put a spotlight on this, and you're certainly doing that by your early work in your position. And we encourage you to do that. We need to get the—to support the NGO communities that are working on this as well. We need to raise this issue in our international meetings. We need to have a higher priority in the bilateral talks among our OSCE member states to include journalists, as far as issues of concern. Unfortunately, there are just too many countries that are part of where unsolved murders have taken place, where laws need to be changed. And we have a lot of work yet to be done.

To me, when investigative journalists are intimidated, it puts a very chilling effect on going after and holding governments accountable, particularly as it relates to public corruption and as to public accountability. So to me, that is at the top of the list, as far as areas that question the sincerity of the government in carrying out its Helsinki conditions. We need to continue to cite specific examples. Unfortunately, without doing that, countries slide into these regressions and it's causing incredible challenges within the OSCE.

So I want you to know, you have, in this Commission, an institution that wants to work in partnership with you to place a spotlight on those countries that need to make change. To me, our highest priority is to protect the individual journalist that are out there and to make sure that countries provide the working conditions where free media can exercise its opportunities. And unfortunately, there are just too many places where that's not the case. We certainly have a lot of work to do with regards to the criminal defamation as well.

I do realize there are only 10 States that have decriminalized it. That's inexcusable. We really need to make that a much higher pri-

ority. And then last, on the Internet, technology is a real blessing, but some countries are using technology to block the access and free Internet in their country, and they're being complicit in this by some of the private companies out there that are yielding to that type of pressure.

So I guess my point is more of an observation, rather than a question. We need to have a common agenda. There's a lot to be done, and we need to develop a strategy that we can work together. Because everything you said are areas that the Helsinki Commission strongly supports and wants to clearly work with you as a partner. With that, let me turn to the Co-Chairman, Congressman Hastings.

Mr. HASTINGS. Thank you very much, Senator. Ms. Mijatovic, thank you for your piercing testimony. Senator, with your permission and hers, I am sure that we would receive her full statement and put it on the Commission Web site. And I also intend, after reading it last night, to make sure that it is a part of the Congressional Record so that the information will be more widely disseminated. I thought you did a concise job in covering the range of concerns.

Picking up where the Senator left off on the question of a common agenda, Ms. Mijatovic, are other parliamentary bodies—the United Nations, the International Parliamentary Union, other structures that are multilateral—going forward with any kind of a common agenda, particularly zeroing in on digitalization and the Internet's widespread usage around the world?

What's happening out there, other than within your mandate, that you know about or that we might look into? And is there any particular usefulness in trying to have a conference that will allow for countries to learn best practices and to discuss among themselves how best to name some common understanding about this technology?

Ms. MIJATOVIC. Thank you. It's a very valid question. If I just may mention, you know, the recent conference we had in Central Asia, where we invited five Central Asian states, and the conference took place in Tajikistan, in Dushanbe. And we were discussing access to information and new digital media. Those conferences are crucial, especially in the countries or in the emerging democracies where we have problems with education, where we have problems, even, with telecommunication infrastructure, not to mention the Internet access.

When it comes to other bodies dealing with these particular issues, I know that most of the international organizations are dealing with this issue from a different angle—Council of Europe from a human rights angle, European Commission from a more commercial and technological one. But the main problem I see in, if I may call them, emerging democracies—the countries where we need to put much more efforts—so not just the OSCE—and try to find, maybe, a common goal or common agenda, where there is much-needed coordination, something that could bring these areas into a new Europe with education, with sharing best practices.

Because what is seen—what I managed to see in the last 3 months, traveling in several countries, that new media and digitalization, as such, is used as a new tool—a very powerful, very

dangerous tool—to further restrict and suppress, with explanations that are not true to the citizens—the explanations that there is a need for certain moratoriums of the frequencies in the period before media can switch to digitalization with the basis of restricting the frequencies.

And new media is all about opening up and giving more possibilities for a free flow of information. So if I understood correctly, it was also your suggestion to try to find a way to cooperate so the different institutions are tackling this problem with a common goal. We already have a very good cooperation with the Council of Europe, and we work a lot on the different issues—not just the digitalization, but many others. But maybe some broader agenda is also needed.

Mr. HASTINGS. It certainly seems like an appropriate area for us to probe. Regarding your own mandate and your own good offices, and nobody's ordered the—nor am I interested in precision, with reference to your resources. But while I'm an advocate of more is better, in some instances, it would be my belief, having seen this office develop over the years, since 1997, that you do have too little in the way of real resources to do what amounts to too much, in the final analysis. Is that a fair statement? What do your resources look like to cover your mandate?

Ms. MIJATOVIC. So if I may—they call us the cheapest, the smallest and the most efficient. We are very small institution. There are 15 of us. But the team is great, and I must say, in just 3 months in the office, the work and the quality of work that is done in that office, and the way—the flow of information and receiving information from the field, and also from the missions, is going on and something that I welcomed very much, from the moment I entered the office. But you are right: We have limited resources. And in the Corfu process, there are several discussions in relation to strengthening the institution by increasing the budget, human resources—I mean, all the issues that are related.

Mr. HASTINGS. And you certainly have my support, and I believe I can say our support, in that effort. Experience teaches that when I'm traveling, even outside the sphere of OSCE, and I bring up the core principles of democracy, and including freedom of the press, with interlocutors, it's sort of like, yeah, yeah, yeah, yeah, you know, there-you-go-again kind of expression from them, whether they be premiers, presidents, foreign ministers, whomever. And I do not just reference Europe; I can go other places around the world and meet that same reaction.

Recently, I raised it with Kazakhstan through its Embassy, questions regarding their tightening and restrictions. And now they're the OSCE Chair-in-Office and we have these core principles that we are supposed to adhere to, as members of OSCE. And now they're the leaders—and I talked to [inaudible] and I think rightly so.

The response that I got—I don't know whether it's true, and I don't seek to know much more, other than to point out how countries will utilize things to show their point of view. It was that Russia, from Russia, untoward things were coming into Kazakhstan that they wanted to stop. And I can see that happening.

I'm not a follower of the blogs, but I'm fond of saying what I know to be true, and that is that if my dead mother were alive, she wouldn't recognize me given some of the things that they say on the blogs and the liberties that are taken, not to mention defamation or libel or those kind of things. As a politician, I'm supposed to be able to take that kind of heat.

But as a country, when stuff is directed toward you, to weaken you, or to cause you problems, then what should be a country's reaction? Not just Kazakhstan; what should Bosnia-Herzegovina or the United States or anyone, if an attack to weaken them is utilized in that way? It's a very sticky point. I hope I'm making myself clear.

Ms. MIJATOVIC. If I can answer that, correctly so, you are questioning the possible interference with our work or possible undermining, already, the autonomy, that we have some independence of the office what would happen? It would be very difficult for me to say that, you know, at the very beginning of my mandate.

But what I experienced by now, for example, if I may, with the Kazakh chairmanship and the way they were treating this office in these 3 months, I can only praise them for, you know, the way they were dealing with—you know, the cooperation, the coordination we've had, and the support. And there was no one single moment where I could say that there was an interference with the work of this very unique and important office.

On the other side, I'm very sad to say and to share that the Kazakhs didn't deliver on the issue when it comes to the commitments in relation to media freedom. And that is something that I will raise at my next visit to Kazakhstan—to Astana for the Tolerance Conference that will take place end of June—but also at informal, ministerial meetings. So that two issues, when it comes to the operations and the work of the office, as I said, I can only praise them and say they were a great support from the moment I was appointed. But when it comes to the issues related to commitments—media freedom commitments—that is something that we need to do much more on.

Mr. HASTINGS. Finally Freimut Duve, the first RFM, from Germany was actively involved in—the Senator and I both witnessed his work in the early stages. And somehow or another, through his office—and I don't know whether it was his personal ability to do it, or not—but we had awards that we were giving annually to courageous journalists and their families. And I just would like to see something like that restored. It's been a number of years now, since the prize was last awarded. I remember handing out those awards here, when the Parliamentary Assembly came to Washington for the first time.

And it was a very moving experience. It came late in the session, and everybody stayed because of its importance. Now, I know that it takes money to give those kinds of awards, but please investigate that, and if there is anything that we can do to try to find those that are interested in offering such support, then I would like you to be involved in that. Because I think it helps to do what the Senator pointed out, and that is, for lack of a better expression, put a lamp on these things.

And the more we raise the—whether somebody is imprisoned in Azerbaijan or in Uzbekistan, I learned that it does get back to them. And in this kind of setting, journalists, that it spreads widely and the information is disseminated, and it causes some change within the framework of those countries. I apologize for the length of my questions and thank you, Senator, for the time.

Mr. CARDIN. Let me just underscore what Congressman Hastings said. We honestly want to put spotlights on countries that need to make change, do it in a most effective way, but it's also good to highlight those who have been courageous to support their efforts. And I think that's what Congressman Hastings has suggested that we've done in the past. And I agree with him. There are ways that we can do that without a significant increase in resources. I just think bringing attention to people who have been in the struggle who have accomplished things is important for us to do. As I pointed—

Mr. HASTINGS. She had a response, I think.

Ms. MIJATOVIC. Well, I can only say that I'm aware of the initiative Freimut Duve started. I met Mr. Duve back in '97, just after the worst of Bosnia-Herzegovina. And he was extremely active in bringing all these problems and these extremely important issues in public, not only by, you know, giving the awards, but also organizing something that I've worked later on in my own country. They were called mobile culture containers. So traveling around the country that experience horrible war, trying to bring people together, journalists together.

So he was very much involved at the very beginning of the mandate of the office in these exercises. As far as I know, these ideas—they are still there, but the problem is, as you said, the financial means that are not important and not something that I should raise here today. But there are also other ways. I mean, in order to raise these issues, you need a voice, and that is something that I will use vigorously, and I will not have any hesitation to do it. Any idea like that is something that we will definitely explore.

Mr. CARDIN. One of the strengths of the Helsinki Commission is that it's a hybrid in that it brings both the Members of Congress and the executive branch and we are very pleased Secretary Posner has been an extremely active member of our Commission.

Sec. POSNER. Thank you. I want to, if I may, just followup on a question that Congressman Hastings asked. And first of all, I want to thank you for your testimony—very clear, very lucid, very informative. And I enjoyed our conversation yesterday as well. One of the things we talked about yesterday is the balance between trying to get governments to work together and cooperate and, at the same time, for that cooperation not to impose, in the Internet context, a new set of constraints or restrictions on what's been a quite free-flowing source of information.

And I wonder if you would say something about that? Give us a little flavor of some of the discussions that are going on in Europe and within the OSCE region? And give us some guidance on principles that ought to be informing the way we look at these issues.

Ms. MIJATOVIC. Thank you. As I said at the very beginning, the worrying trend of using new media and digitalization as a new

tool—powerful tool—to restrict free flow of information is something that my office will continue to work on. As I said in my speech, we are developing a strategy where we will try to find the best practices, but also the worst practices, in the OSCE member states. And that publication will also be available to you, because I think that is the first step that we need to do in order to have a clear picture in which direction to move.

In order to give you—as you said, for a bit of flavor—I can mention the case we are now on, and that’s Armenia, and their broadcasting law, which is also called the Law on Digitalization. I had a visit—visited Armenia months ago, and I had the honor to meet their President, and also, other executive bodies of parliament, government.

And I can see that there is a light at the end of tunnel there. We are hoping to have clear results any day, now. And the cooperation the government showed during the visit, but also afterwards, by pulling the rule out of the procedure in order to allow public consultations. So the citizens, NGOs and most of my office offers the assessment of the law with the clear recommendations was something that was very much welcome.

At the moment, we still do not know what will happen. I do hope for the best possible result, because that would be an example, in Caucasus, but also for all other countries that are struggling to switch to digital, terrestrial broadcasting, which will offer better things to the citizens, and not restrict information. And the law has several issues that we raised in our recommendations that were definitely not in line with international standards.

And you know, those provisions were suppressing the free flow of information. Those, also, were restricting licenses to existing, but also to the new broadcasters. So all of this was raised in a very cooperative and friendly manner, and we took—or at the end, the recommendations will be taken to heart and we have, at least, the first law that can be called best practice in the Caucasus region.

Sec. POSNER. Let me follow, just, with one further question on that. You said we have to both look at best practices, and then practices that are not the best. I know that in Belarus, for example, there’s a new set of media restrictions, or Internet restrictions, that are about to go into effect. What can you do and what can we do? How do we track these things at an early stage? What are the kinds of responses that are appropriate where we see regulations that are about to make it more difficult for the free flow of information.

Ms. MIJATOVIC. Belarus is definitely the case that we would call, you know, not a good practice. The moment—I learned from my predecessor, and also from my colleague—that the moment this law was discussed—and it was several years ago—2 years ago, the office was involved from the very beginning.

It included visits to the Belarusian Government. It included assessments with recommendations—clear recommendations—to the government setting the standards, in order not to restrict the free flow of information, not to block the Web sites, filter the Web sites and, you know, all these issues that are now present in this law.

There are several explanations saying that, oh, it’s more, you know, just a—it has a regulatory, but not restrictive tools, which

I disagree with. And it was also raised during my mandate. Last month, I raised this issue in a letter to the Foreign Minister, and also in a public statement. What else can we do at this moment?

I can only say to continue to fight for a good cause and to try to find a way that the government understands that this law needs to be changed with the amendments, or just accepting the recommendations that were in the assessment. What I learned at the [inaudible] on July 1st—and we go to, of course, monitor and see what will happen. But that is something that we will continue to raise, no matter, you know, that the law is now adopted.

Sec. POSNER. Last, just, quick comment from me. As we discussed yesterday, I'm going out next week to Turkmenistan and Uzbekistan, two other countries where there are a range of these issues. And I very much look forward to working with you and, to that visit to try to come up with some [inaudible]. Thank you.

Mr. CARDIN. We've been joined by Congressman Smith, the longest-serving member of the Helsinki Commission.

**HON. CHRISTOPHER H. SMITH, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. Thank you, Mr. Chairman, and thank you, Co-Chairman Hastings, for convening this very important hearing, and Secretary Posner, I'm glad to see is here. Sometimes the Assistant Secretaries who are part of the Commission often fail to show. Thank you for being here. Ms.—how do you say it?

Ms. MIJATOVIC. Dunja.

Mr. SMITH. Dunja.

Ms. MIJATOVIC. Mijatovic.

Mr. SMITH. Ms. Mijatovic, thank you for the work that you're doing on freedom of the press. And obviously, in my opinion, perhaps the most manipulated part of the press, in modern times, is the Internet. I held a series of hearings, one of which, before I held it some 4½, 5 years ago, I read a book called "IBM and the Holocaust."

And it was a book that detailed, in very disturbing, chronological way, exactly how the Gestapo was able to use the high-tech capabilities of IBM Germany, with an assist from some other IBM affiliates, to find the Jews. They were the census people of the time, so they used high-tech as a means of significant repression, obviously, that led to the Holocaust and massive slaughter of Jews.

Today, we find that the Internet has been co-opted as a means of repression, as well, as you know so well. And I'm wondering, the Reporters Without Borders has designated Turkmenistan and Uzbekistan as enemies of the Internet. And three other participating States—Belarus, Russia, and Turkey—are considered countries under surveillance. And obviously, there are problems elsewhere, but those five jump off the page.

And I would ask unanimous consent, Mr. Chairman, that the very brief, but very important report on Turkmenistan and Uzbekistan by Reporters Without Borders be included as a part of this record.

Mr. CARDIN. Done.

Mr. SMITH. I appreciate that very much. And I'm wondering if you've looked at any of the legislation that, perhaps, some of the

European countries, the European Parliament, or here in the United States, that we've done to try to combat this growing menace—this misuse of what should be an opening-up vehicle which is being used to close down the forces of liberty and human rights.

I introduced legislation called the Global Online Freedom Act, and that bill has a number of mutually reinforcing provisions. We did it with a great input from Reporters Without Borders. Freedom House will testify momentarily. They've endorsed the bill. A consortium of human rights organizations—Amnesty International, Human Rights Watch—not only helped draft and work the details; we even have Google, now, supporting the legislation and endorsing it and asking that it be enacted.

Obviously, much of the impetus came out of the misuse of the Internet by the PRC, the People's Republic of China. But obviously that, you know—repressive societies share best practices, too, and the Chinese secret police have been sharing that egregious best practice with these other countries. What the legislation does—and I would ask you for your thoughts on—it seems to me that without—companies have a hard time pushing back, when they do business. I wish they would, but it is a hard time. It's, you know, a David-and-Goliath, very often, type of fight.

It needs to be a government-to-government fight, and many of our opinions [inaudible]. What the legislation would do—it would create an office within the U.S. Department of State—we hope that other countries will do this, especially if they are home to large IT giants, like we are in the United States. The legislation would set up this office that would be kind of like a command-and-control to work the issue of Internet freedom. The legislation pushes not unfair—we don't want hate speech. It is nonviolent political speech and nonviolent religious speech that we'd be protecting.

And our hope is that if a country is designated what we call an Internet-restricting country, that company then would have to put—that company that does business there—personally identifiable information outside the reach of the repressive country. So that—and we're seeing now, Yahoo recently did this in Vietnam. They located their e-mail servers and the information stored there outside the country, because we know that Hanoi has been using that to bust up its human rights promoters there, as well.

It also would require disclosure of what is being censored by governments, so that we know exactly what not just China, but these other countries—Belarus, Turkmenistan, Uzbekistan—are doing to inhibit the free flow of information by way of censorship. The disclosure is kind of like a disinfectant.

It seems to me it's a commonsense approach. It's ready, frankly, for floor action. We have had buy-ins from a whole lot of people—like I said, the NGO community and, increasingly, the IT companies, Google being chief among them. In your work, would you find something like this useful? Have you looked at any kind of legislative initiatives like this? And if not, I'd welcome you to please take a good, hard look at it, and we would appreciate your comments.

Ms. MIJATOVIC. Thank you very much. When it comes to legislation of any member state of the OSCE, we of course follow any new legislation, all the legislation that is not in compliance with the OSCE commitments. So we will definitely take a look at this act,

and what I welcome from your statement is that the act was drafted with the close cooperation from NGOs, all the associations that have a say in such an important cause.

You mentioned, also, issues that are related to violence and issues of incitement to violence via the Internet, and all the programs that we see there. That is something that is present, and that is something that is a factor. My office has a different role. My office has a role to promote the free flow of information, but of course, with awareness that problems on the Internet are something that also needs to be tackled in the best possible way, but not by restricting.

The best way is—and you mentioned it several times—is cooperation between the countries sharing the information and trying to find the best possible ways to tackle this very important and dangerous things that we also see on the Internet. You didn't mention, but there is also something that goes without saying, that needs to be tackled with the proper legislation and cooperation between governments. It's child pornography. So there are issues that need a regulatory and legal framework, but a regulatory and legal framework based on best practices that are not suppressing the free flow of information.

And the office will, of course, welcome any legislation that is protecting free speech, but also protecting citizens from any kind of violence or any kind of negative impact that the Internet can have, when it comes to the free flow of information that is regardless of frontiers. And what we also see—and I mentioned it in my speech—any kind of suppressive ways, any kind of attempt from the government to regulate, to block, to explain it with completely different reasons than the actual ones are, at the end, a lost battle.

Because you move your server—you move to a different area, and you can access the information. But the important thing is that all these issues are done within the cooperation. And that is something that I think is also missing in the OSCE region, because it can be of enormous help if everybody is aware. And I think with this booklet as a start, it will be able to show the next best and worst practices when it comes to Internet legislation.

Mr. SMITH. Ms. Mijatovic, I'm glad you brought up the child pornography issue, and all those kind of issues, because we do make provisions in the legislation—and our law couldn't be more clear in the United States that obscenity is not protected speech. It is a matter of prosecutorial discretion as to whether or not this government—the U.S. Government—is serious about that.

We do have a number of—and it would be worth your while, at some point, to visit an FBI center nearby in Chantilly, VA, where they very aggressively are trying to track down, find, and then prosecute. We have programs like "Innocence Lost" and other initiatives that are all designed to protect children. And so the more we share those best practices among participating States, I think the better.

Unfortunately and sadly, much of the child pornography is produced in the United States, and so it does come down to ensuring that we enforce our laws, which make it a serious crime with serious jail time, and confiscation of assets, properties, villas, boats and all the rest for those who are apprehended and then pros-

ecuted and convicted. So I'd like to work with you on that, as well. Chairman, I just wanted to make the point that I was late. I had my primary last night, so I was up all night. It went very well. [Laughter.]

Mr. CARDIN. Do you want to give us a report?

Mr. SMITH. Seventy-thirty—I had a “Tea Party” candidate, and it went very well.

Mr. CARDIN. [Inaudible.]

Mr. SMITH. Thank you.

Mr. CARDIN. Let me just followup on one point that Congressman Hastings raised. And it's fair to say that, on the shield law, the OSCE states will look to the United States for solutions, so it's important for us to act.

But when you're Chair-in-Office, you look at the country of the Chair-in-Office to not only carry out commitments that were made before the chairmanship began, but also, to set an example for other countries. You have specifically mentioned concerns about Kazakhstan in at least two examples, and gave some others. What do you plan to do this year to help Kazakhstan lead by example, as it relates to journalists?

Ms. MIJATOVIC. Well, from the very beginning of my mandate, I'm trying to do that—to assist, to help, but also to raise my voice when there is no other way to point to the problems that the chairmanship is facing when it comes to the freedom of the media. The first opportunity I had was a media forum in Almaty at the very beginning of my mandate, when I clearly noted all the problems, and I had a meeting with NGOs and journalists in relation to blocking of certain Web sites, blocking the phones of Respublika, blocking all different means of information.

But you know, that is not something that I will start doing. I'm already doing it. I'm raising this with the chairmanship all the time and, as I previously said, my first visit to Astana will take place very soon, where I plan to meet Minister Saudabayev and other officials and to discuss all the issues in relation to the problem.

So I do not see that I should focus on, you know, the chairmanship or United States or my own home country. I go where there are problems and I also raise the issues, no matter if that country is advanced or not advanced when it comes to media legislation. So—but it comes to the plans and promises that Kazakhstan did.

I mean those promises were given to 56 member states. Institutions—they didn't have any say in that. And at the moment, when I can see that only one promise that is on the list of promises is, in a way, tackled, I would say—cosmetic changes to the law for registration for licensing broadcasters.

So I can only say that I will continue to raise the issue in relation to the journalists. I already raised the issue of imprisonment of Yesergepov, which I also mentioned in my speech. And I can only say that I do not—I will not have any hesitations because Kazakhstan is the Chair-in-Office, but you know I will even have more focus on that.

Mr. SMITH. Well, my point is this—not only is Kazakhstan Chair-in-Office, but then you're seeking to host an OSCE summit at the end of the year. It would be useful to have certain progress made

in this area that could be very much a showcase as the type of practices that are helpful for countries that have been in transition. And it just might be a friendly reminder, when you're in Kazakhstan—to be able to show demonstrated progress will help all the countries and make the summit much more feasible and productive, is the thought.

Ms. MIJATOVIC. Well, thank you very much.

Mr. CARDIN. Thank you very much.

Mr. HASTINGS. Thanks a lot.

Sec. POSNER. Thank you very much.

Mr. CARDIN. We appreciate your commitment to this issue and are very, very impressed by the comprehensiveness of your approach and we agree with you as to the priorities.

Ms. MIJATOVIC. Thank you very much.

Mr. CARDIN. We will now turn to the second panel, which will consist of Sam Patten, who is the Senior Program Manager for Eurasia at Freedom House. Since 1980, Freedom House has issued an annual index on freedom of the press. Its latest edition, "Freedom of the Press 2010: A Global Survey of Media Independence," was released in late April. Mr. Patten has had an extensive career in foreign policy, having held a variety of positions in government and the private sector.

Muzaffar Suleymanov is a Europe and Central Asia Research Associate with the Committee to Protect Journalists. He joined in CPJ in 2007. Prior to joining CPJ, he worked for nonprofits focused on Central Asia. Their complete biographies are also available. We'll start with Mr. Patten.

Mr. PATTEN. Thank you, Chairman Cardin. Thank you, Co-Chairman Hastings, Congressman Smith—

Mr. CARDIN. You're—by the way, you're more than welcome to remain or leave as you see fit. [Laughter.]

**SAM PATTEN, SENIOR PROGRAM MANAGER FOR EURASIA,
FREEDOM HOUSE**

Mr. PATTEN. Thank you, Chairman Cardin, Co-Chairman Hastings, Congressman Smith, Assistant Secretary Posner for the opportunity to address this Commission on the very important issue of threats to media freedom.

It is particularly gratifying to hear Ms. Mijatovic talk about some of her priorities on Freedom of the Media and outline the challenges that lie ahead in her very difficult job as the Representative. I'm sure that Mr. Suleymanov will give a more textured understanding of what's going on the day-to-day fight with individual journalists fighting against oppressive regimes in the OSCE area.

What I would like to do, if I could in the interest of brevity, is just to summarize my written remarks and give an overall sense of—from Freedom House and from the analysis that we conduct on a year-to-year basis—of where the trends are headed with respect to freedom of the media.

Freedom House does, as the chairman noted, produces a number of annual publications—our "Freedom of the World" publication, also the "Freedom of the Press" publication. And we simply—we release our "Worst of the Worst" report on the 10 worst countries in

the world. Three of those countries are within the OSCE region: Turkmenistan, Uzbekistan and Belarus.

So you know, for that reason, it's particularly relevant to talk about what we see as a very negative trend with respect to media freedoms, not only in the former Soviet countries, but also throughout the region as a whole. We see media freedom and the lack of media freedom, attempts to repress and restrict the right to expression as operating in many ways, like a terminal disease.

And a terminal disease like cancer either operates—either regresses, at which point it's possible for the body to heal or it becomes—it metastasizes and becomes much worse. We see what's currently happening in the OSCE environment, particularly in the former Communist countries of the Soviet Union in a very negative trend.

I'd like to look at four particular instances that we've noted over the last 10 years. In 2007, we issued a report, "Muzzling the Media: the Return of Censorship in the Commonwealth of Independent States." And that report looked at a steady regression from 1999 until 2007. It's useful to sort of take that as a point of departure that there's been a broad, systematic rollback in media freedoms throughout the CIS region and look at what's happened since then.

That rollback began with broadcast media and most dramatically in Russia, but before the current Russian government moved against media most, the Kazakhs already were consolidating their control over broadcast—broadcast [inaudible] in Kazakhstan in the late 1990s.

As Ms. Mijatovic noted, there have been some cosmetic changes as a result of the Madrid Pledges, but they're really cosmetic only, and there are serious concerns that persist in Kazakhstan. Azerbaijan has also produced a number of deplorable examples with respect to media freedom, and some of which have been mentioned, and I'm sure there'll be more discussion about those.

Most chilling among them, from my own personal perspective is the so-called "donkey case" of the two bloggers who produced a fairly harmless video in which a government spokesman was depicted as a donkey and put it up on YouTube. Shortly thereafter, they were attacked in a public cafe in Baku and after their attack, they were arrested and imprisoned on charges of hooliganism. They now sit in one of the worst jails in Azerbaijan.

The chilling effect, even if Azerbaijan has not moved forward as quickly as they probably will with respect to physically restricting the Internet, that sends a very chilling message to all other bloggers who might speak out and exercise their rights to freedom of expression under various OSCE documents.

The legal framework is an issue of serious concern as well. In each of these three countries, and also throughout the CIS region, we've seen numerous laws that roll back media freedom. Of particular importance given Kazakhstan's current status as Chairmanship-in-Office is their Internet law. It's nearly 1 year old now. It treats the Internet as any other form of media. According—it hasn't—it hasn't been used in practice yet. There have been no cases yet, but the fact that it exists on the books is a source of serious concern for us.

How these countries treat international broadcasters is also a matter of concern. Two of the three countries that I'm just speaking about now, both Russia and Azerbaijan, have taken explicit actions against U.S.-funded broadcasters and other international broadcasters. In my written testimony, I gave Kazakhstan credit for not having done so, but I subsequently learned that in the last several years, the BBC has been pushed onto less-listened-to FM frequencies and there have been some other cases of interference with international broadcasters in Kazakhstan.

Not as explicit as the denial of RFE/RL and VOA to broadcast in Russia and Azerbaijan, but still worrying. And finally we see, more recently, a clampdown on print media, which is puzzling in a way when you consider that in Russia, *Novaya Gazeta* has a very, very small circulation and it's really read only by a very, very small percentage of the population.

However, the ability of the print media to be reproduced on the Internet makes it a cause of concern for increasingly authoritarian regimes. Across all three of these countries, we see efforts to restrict the freedom of the media as the first shot across the bow, as it were, when it comes to other moves toward authoritarianism.

Most dramatically, we've seen Kyrgyzstan melt down in the last 3 months—very repressive measures were taken against the media. As Ms. Mijatovic noted, there was one and possibly two murders that occurred in Kazakhstan in late 2009 and early 2010 related to media issues in Kyrgyzstan, and just prior to the revolution in April, there was an attempt to shut down all foreign broadcasting.

So first, we see the media come under attack, then under democratic freedoms are repressed after that. There's a contagious effect if we view this as a disease and as a malign disease, not only on the countries of the region of the former CIS and former Communist region, but also the other 56 member states of the OSCE.

And some of these issues we've seen, if not as directly related or emanating from the CIS, in countries like Italy or Turkey. In Italy, there have been cases where Google has come under attack from prosecutors for materials that have been posted on YouTube, which is now a subsidiary of Google, and they've been shut down in Italy.

In Turkey, because of the "Turkish-ness" provisions of the Turkish Constitution, there have also—I believe Google has been shut down, now, twice, in Turkey. When the standards are lowered, it sends a very negative message far beyond the CIS region. And that's really what's been happening over the last 3 years.

The standards are lowered, and various forms of arguments and justifications come forward. With respect to the Internet, there are compelling ones, as Congressman Hastings noted. The Kazakhs are legitimately concerned about their own national security, as all states are concerned about their national security. Questions of national characteristics, questions of protecting children—these are all, you know, very, very important issues that need to be addressed. Yet, too often, they're either poorly understood or they're taken advantage of as a pretext for larger repressions, particularly on the Internet.

Several weeks ago, the State Department hosted a roundtable for the Kazakh Government and Deputy Foreign Minister Kairat Umarov came in and talked about issues with NGOs, which we ap-

preciated. And when the issue of Internet freedom was raised, he had sort of a curious response. He said the reason that we have to pass laws like the one that Kazakhstan did pass a year ago, is because many of these Web sites lie.

And as Congressman Hastings noted, you know, his mother would know the difference between truth and lies and most readers know the difference between truth and lies. It's been our experience that governments regulate very poorly when it comes to separating between truth and lies.

So that's just an important issue with respect to the power of example that ought to be addressed. Thank you, Chairman Cardin, for raising Kazakhstan and the power of example. There are 6 months remaining in the OSCE chairmanship and there are some positive things that Kazakhstan can do going forward.

In preparing to come here today, I talked to a former Kazakh newspaper publisher who's no longer publishing his newspaper of media repressions in the country, and I asked him what he thought about the Zhovtis case, the Yevgeny Zhovtis case. And while this isn't particularly related to media freedoms, Mr. Zhovtis' imprisonment in Kazakhstan on separate grounds, it does have the power of example.

He said, well, you know, everybody has their Zhovtis. Nazarbayev has his Zhovtis. The Akim of Uralsk has his own particular prisoner and so forth and so on. When the citizens in the country—when the authorities in the country see their president behaving in such a way, it has a contagious effect on how they behave and certainly all of these countries, given their historical experience, watch each other very, very carefully.

In terms of what to do going forward, the specific cases that have been talked about today, it's very important to raise these cases. It's equally important to look at the trends that they represent and where they're going because we see a very—a negative trend. Yet, raising the cases, doing so in a public manner, wherever possible, we know that the Department of State does raise these behind closed doors in their meetings with foreign ministries.

To do so publicly, and in the press does put the pressure on governments that are necessary to have positive change. The power of example has been discussed. Defending Internet freedom is critically important. We salute Secretary Clinton's priority regarding Internet freedom and all efforts going forward as Congressman Smith noted, his bill would go a long way toward keeping the Internet open and fair.

The Global Network Initiative is a voluntary initiative between NGOs, corporations, and governments. And this approach makes eminently more sense than governments alone trying to regulate the Internet and Mr. Smith's legislation takes that into account with respect to their talking to Google and NGOs and others to get the necessary buy-in to have voluntary principles of conduct makes those principles much more realistic and applicable.

And then finally, we need to invest in the forms of international broadcasting that will be necessary until the private sector can do this on its own. Government-funded broadcasting is never the ideal solution. Ideally, the private sector will produce objective, independent information. But until that happens, we need to take gov-

ernments more strongly to task when they deny the broadcasting of the Voice of America, RFE/RL or other international broadcasters.

Also, we need to look seriously at the Broadcasting Board of Governor's budget and see that new ideas, and new creativity are involved in some of the programming, have already—strong, strong content to make them more applicable and more interesting to the public because in the end, it's the publics of all of these countries, not only in the CIS but also in former Soviet—I mean also the OSCE region that will demand change and drive their governments to deliver. Thank you.

Mr. CARDIN. Thank you. Thank you very much for your comprehensive testimony. Mr. Suleymanov?

**MUZAFFAR SULEYMANOV, RESEARCH ASSOCIATE,
COMMITTEE TO PROTECT JOURNALISTS**

Mr. SULEYMANOV. Thank you. Chairmen Cardin and Hastings, Assistant Secretary Posner, Congressman Smith, thank you for this opportunity to participate in this important hearing on the stress to press freedom in the OSCE region. My name is Muzaffar Suleymanov. I am the Research Associate for Europe and Central Asia with the Committee to Protect Journalists, an international, independently funded organization that defends press freedom worldwide.

It is an honor to speak to you today and be a part of this hearing. I will focus my testimony on three countries of the region, particularly in Kazakhstan, Uzbekistan, and Russia. But before I proceed with CPJ's concerns in these countries, I would like commend the U.S. legislature for passing the Daniel Pearl Freedom of the Press Act in April, and thank President Barack Obama for signing this important bill into law in May.

As President Obama has duly noted in the signing ceremony, journalists and bloggers worldwide put their lives at risk everyday. And to honor that risk, world leaders must declare zero tolerance of media repression and urge their counterparts elsewhere to do the same. Although my testimony focuses on three countries, freedom of the press is threatened in many other OSCE member states.

And now, I would like to start by briefly highlighting those threats. Investigative reporters in the Balkans, including in Serbia, Croatia, Kosovo, and Bulgaria constantly face threats and endure violent attacks by nationalists and organized crime groups. In Azerbaijan, authorities continue to defy the binding European Court decision which warranted the immediate release of imprisoned actor Eynulla Fatullayev. In Ukraine, the lack of political will has derailed the decade-long investigation into the 2000 murder of journalist Georgy Gongadze. In Kyrgyzstan, unchecked violence against journalists, including the 2007 murder of Alisher Saipov has forced independent reporters either to leave the country or practice self-censorship.

In Belarus, police officers, and security agents continue to harass independent reporters and a recently adopted Internet law threatens the last remaining platform for President Lukashenka's critics. Now, I'm going to focus on the press freedom records of the three

regional countries of concern for CPJ. I will start with the current OSCE chair, Kazakhstan, then will talk about Uzbekistan, and finish with Russia.

The current OSCE Chair does not live up to the standards that they should be set to by the leader of the main Regional Human Rights Monitor. Impunity in attacks against independent journalists, politically motivated prosecutions and imprisonments of government critics, and the restrictive Internet law are the main issues that taint the country's record.

One journalist was killed with impunity and at least four became victims of violence in Kazakhstan in the past 18 months.

Kazakh investigators have reported no progress in solving these attacks, most notably the December 2009 killing of Kyrgyz reporter Gennady Pavlyuk in Almaty. Pavlyuk had reportedly traveled to Kazakhstan to raise funds for starting an online publication when he was found unconscious, sprawled on the overhang of an apartment building's entrance. He had apparently fallen from a window above, yet, Pavlyuk's hands and legs were bound with tape. He died in the hospital 6 days later without ever regaining consciousness.

Imprisonment on fabricated charges is another form of censorship that the authorities use against their critics. Kazakhstan continues to hold in jail independent editor Ramazan Yesergepov and human rights defender Yevgeny Zhovtis. Zhovtis' case is well-known to this Commission, so I will not go into detail. But Yesergepov was jailed 17 months ago on the trumped-up charge of "collecting state secrets," because he uncovered corruption in the secret service.

Despite an intensified domestic and international advocacy in the two cases, including President Obama's discussion of Zhovtis' case in April with President Nazarbayev, Kazakhstan continues to hold both men. My colleague, CPJ Europe and Central Asia Program Coordinator Nina Ognianova, traveled to Kazakhstan on a fact-finding mission last week and tried to visit Yesergepov in prison in the regional city of Taraz. Authorities behaved rather bizarrely.

They first granted her permission to meet with him in prison, but an hour later, they declared that her access was denied. Numerous attempts to receive an explanation for the sudden change of mind have so far been unsuccessful. CPJ is also disturbed by the retaliatory use of criminal and civil defamation laws against government critics. Government control of the influential broadcast media and the introduction of repressive new bills to gag recalcitrant independent outlets.

Insult of the President of Kazakhstan or his family in the media, for instance, carries a prison term of up to 5 years. In one outrageous case in February, an Almaty court issued a gag order against all media in Kazakhstan after several independent newspapers carried an open letter accusing President Nazarbayev's son-in-law of corruption.

Kazakh authorities also used civil defamation lawsuits, carrying exorbitant fines, to bring critical outlets to their knees. In the last 3 years, government officials, and state agencies filed more than 60 defamation lawsuits against independent media seeking more than \$3.5 million in damages. Free expression on the Internet is under

attack in Kazakhstan, as well. Despite an international outcry, in 2009, President Nazarbayev signed restrictive Internet law and privacy laws. The new Internet law equates all Web-based platforms, including social networking sites, personal blogs and chat rooms, with traditional media, and subject them all to the same severe restrictions.

The law gives state agencies the broad authority to block all Web sites that the officials deem in violation of the legislation. The broadly worded privacy law restricts reporting on government officials and carries harsh penalties for violators, including closures of media outlets and a 5-year-long imprisonment for individual journalists.

Uzbekistan is another country of deep concern for CPJ. It is the leading jailer of journalists in Europe and Central Asia, with at least seven reporters behind bars. Among those in custody is President Islam Karimov's own nephew, journalist Dzhamshid Karimov, who has been held incommunicado in a psychiatric hospital for 4 years as a retaliation for his critical reporting on his uncle's policies.

Dzhamshid Karimov did not even hear a court verdict. In September 2006, security agents kidnapped him from the street in his native city of Jizzakh and took him to the clinic in a neighboring region. No lawyer dares or cares to represent him, local sources told CPJ. As no one dares to dispute what is commonly viewed as a Presidential order.

Press freedom groups, including CPJ, have repeatedly called on President Islam Karimov to ease his regime's grip on the media by releasing imprisoned journalists, unblocking access to independent news Web sites, allowing international broadcasters to work in Uzbekistan, and ensuring the security services stop harassing reporters.

But those in government seem to have developed an immunity to such calls and campaigns. CPJ urges the U.S. Government to work in cooperation with the European Union to press President Karimov on his state's appalling press freedom record and to condition diplomatic relations with Uzbekistan on the immediate release of all our colleagues.

Murder is the ultimate form of censorship, and impunity in journalist killing remains the main threat to press freedom in the OSCE region. In Russia in particular, impunity has regrettably become the norm, to the plight of the independent press corps whose ranks are dwindling. Nineteen journalists have been murdered for their work in Russia in the past decade. Only in one case have the immediate killers been convicted, and even there, those who ordered the crime remain at large.

Although President Dmitry Medvedev has publicly promised that his government will ensure that his crimes against the press will be solved, the critical reality has not changed. At least three journalists were killed in Russia for their work last year alone, with no progress reported in bringing them to justice. No other case demonstrates the sharp disconnect between President Medvedev's pledges and his subordinates' actions than that of 37-year-old publisher Magomed Yevloyev.

Through his Web site, ingushetiya.ru, Yevloyev exposed high-level government corruption in his native Republic of Ingushetia, covered disappearances and killings of civilians, and called all regional leadership to resign. Authorities did not wait long to retaliate. In August, 2008, guards of then-Ingushetia Interior Minister Musa Medov arrested the journalist without a warrant shortly after his flight landed at an Ingushetia Airport. The agents placed him in a police vehicle and shot him dead on the way to their headquarters in the regional city of Nazran.

Rather than launching a thorough probe into the incident, both local and Federal authorities swiftly sided with the shooter's account, declaring Yevloyev's killing inadvertent. Investigators announced that the publisher was killed accidentally when he tried to snatch a gun from one of his three arresting officers. But the CPJ investigation into the case shows a number of inconsistencies in the shooter's account, as well as in the overall official version of the event.

And for those interested in our investigation, I would recommend taking a look at our special report called, "Anatomy of Injustice." It's available on our Web site—www.cpj.org. Currently, not a single person is held accountable for the murder. The shooter, a nephew of Minister Medov and the sole defendant in the case, never showed up at his own trial. The proceedings ended in December with negligent homicide verdict that carried a 2-year term in a low-security prison.

But even that conviction did not stand. To the outrage of Yevloyev's family and colleagues, in March, Ingushetia's supreme court announced the prosecutor's overcharged the killer and released him by placing him on house arrest for 2 years. CPJ calls on this Commission to raise Yevloyev's case with high-ranking officials in the Obama administration and encourage those officials to bring up the case in bilateral meetings with their Russian counterparts.

A new, independent probe is badly needed in Yevloyev's killing. Mr. Chairman, CPJ commends this Commission on holding this important hearing, and we urge you to make such hearings a regular practice. We recommend this Commission share today's testimony with President Barack Obama and members of the executive branch, and urge them to actively engage with their regional counterparts on the pressing issues discussed today. Thank you very much.

Mr. CARDIN. Thank you for your testimony. We don't have to formally transmit it as we have a member of the executive branch, Commissioner Posner, sitting next to me, so that message has gotten out. He's taking lots of notes. You've used the terms regressed, cancerous types of activities that will jeopardize progress made in other democratic institutions within a country.

Could you just share with me your views as to where we think we have progressed over the last 35 years within OSCE on the issues of freedom of the media, particularly during the last 10 years? Have we made progress or have we regressed during this period of time? Just give us a sense of whether we really—I mean, we need some self-evaluation here, because it really does appear that we are moving in the wrong direction. Mr. Patten?

Mr. PATTEN. Well, certainly, there was sort of an ephemera of press freedom from 1991 that continued on, you know, almost as long as 2000 in various countries, depending on which countries they were. Calling out individual cases, at times, has put pressure on governments. The Yevloyev case, which was brought up in Ingushetia, ultimately led to the dismissal of the President, so that—or was part of the chain of events that led to the dismissal of the President.

So to the extent that the more egregious cases are repeatedly brought up, it does put pressure on the authorities. It's not a case of the media, per se, but the lawyer, Sergei Magnitsky, who—I believe, Chairman, you have acted on this case—actually touched a chord with the Russian people, because he was seen as an ordinary lawyer who was fighting for basic rule of law and basic rights for Russians. And that put moral authority on President Medvedev to act. And now President Medvedev has made a number of commitments, but they have not been delivered on yet.

So I would say that, you know, the progress that we've seen has been marginal. And there's other progress which is, perhaps, unintentional, just in the form of the Internet and what the Internet offers. So protecting the Internet is probably the best thing that we can do, going forward, in order to allow news and information that's unfettered to get into many of these countries which are restricting it.

Mr. CARDIN. But you have said there's a disturbing trend. You would have me believe that we're moving in the wrong direction. Rather than making progress for the protection of democratic institutions concerning freedom of the press, we've actually moved in the wrong direction in too many places.

Mr. PATTEN. In the case of the countries of the former Soviet Union, it's what they are doing as opposed to what we're doing. Now, it can be argued we're not doing enough. But there is a concerted effort among countries like Russia, like Kazakhstan, like Azerbaijan, Uzbekistan, and others to repress the media. It's not an accident. These are not isolated cases.

These countries are watching each other very carefully. They're meeting and they're discussing ways of repressing media freedoms, of attacking the Internet in certain cases. We've seen cases of cyberwarfare in Estonia and Georgia. So certainly, there is a concerted effort to attack media freedoms. So really, we just have to first recognize the existence of a concerted threat and then address it as a concerted threat, as opposed to individual instances.

Mr. CARDIN. What I would see as the consensus of the organization is that there's no—we don't have an enforcement arm to go out and require countries to do different things. But if the examples during the Soviet Union days are to be followed, Mr. Suleymanov's point about raising specific cases makes a huge difference. We did that very effectively during the Soviet days.

And when you put a face on an issue, you can get much more attention than when you just talk in abstract numbers, that so many journalists have been attacked. Well, each one of these journalists has a story. If that story gets told and told again, it does provide much more public pressure, international pressure on coun-

tries to act. So I would hope that we would follow your example that you asked us to do.

Let me just point out also that—I guess the point is, how do we make this a higher priority? Maybe that's the question you should be asking us, but how do we make this a higher priority? How do we make your job as the representatives a little bit easier? Now, we've pressed very hard for the Administration on Bilateral Meetings to place higher priorities on human rights issues. And I think we've had some big success there. I think we've been successful in some cases.

And obviously there are a lot of bilateral issues. The same thing is true within OSCE. There are a lot of issues within OSCE, and as important as the journalists and media issues are, they're just one of many issues that are on the table. So I think our challenge is, how do we make this a higher priority?

And I would just urge those of you who are working in the private sector to work with us to strategize as to how we can elevate this within the OSCE, within the United Nations, within the EU, within our own government. If you have thoughts on that, we certainly welcome your thoughts on that.

Mr. SULEYMANOV. Please, if I may. But first I wanted to get back to—

Mr. CARDIN. Where we are?

Mr. SULEYMANOV. The case of Magomed Yevloyev, actually, to elaborate on what you have said earlier, that we should bring faces to the cases—not to mention numbers, but speak specifically about the cases. And I believe and CPJ believes that it is important that the U.S. Government does not go shy of going on the record about discussing the cases and speaking about it at the bilateral meetings, or any other forums where it's possible. And raising the cases and speak about the cases.

And speaking of the case of Magomed Yevloyev, yes, you are right. President Zyazikov of Ingushetia did resign, or was dismissed after the murder. But then at the same time, like, 2 months later, he was reappointed as an assistant to President Medvedev. So it's not actually dismissal, but promotion. And the same happened to Interior Minister Musa Medov. He was reassigned to Moscow.

And we urged this—as I said now, in my statement, it's important the U.S. Government raises the cases, speaks about the cases on the record and talks about them whenever it's possible. It's going to be a good boost of morale for the press. It's going to be a good signal to the government that they have to address the cases.

Mr. CARDIN. Well, I agree with you. There is pressure at times for us to calm down a little bit because progress, supposedly, is being made. We find that that's usually just an excuse for us not to bring these issues up, and we're better off being as open and transparent in our concerns as possible. Thank you. Let me turn to Secretary Posner.

Sec. POSNER. Yes, I want to followup exactly on what Senator Cardin was asking and discussing. First of all, I appreciate the testimony. And I would say, from my perspective, the more information I can get about specific cases, the better I can do my job.

I was in Russia 10 days ago for what's called the Civil Society Dialogue, or Working Group, with Mike McFaul and Vladislav Surkov. We talked mostly about prison issues and about migration. I did raise specific cases. I raised cases with the government. I also met a range of nongovernmental activists, including some I've known for a long time, and some bloggers and some journalists. And what they described was a very bleak environment, where they are really feeling under enormous pressure.

What they said, and what I believe is that we need to be raising specific cases. And we'll continue to do it, whether it's Yevloyev or others. I want to just be kept up to date and I encourage you to keep pushing us and telling us what are the cases and how to raise them. But I think that the bigger question, for me, which is sort of coming back to what Sen. Cardin said, is, in the context of the OSCE, it's very easy for these issues to get lost or marginalized.

And I think we ought to be thinking creatively of ways in which we can reinforce—this is a priority—in the context of that larger discussion. How do we create space? How do we create more public visibility for these issues so that governments, whether Russian, or Kazakhstani, or whoever, feel that there really is a growing sense of frustration and even outrage at what is a decline in freedom for the media?

It's clear from all three of your testimonies that we have a negative trend line here. And I think we ought to be calling that out and raising the energy for us and for other governments to be pushing, as well as the NGOs. So I would welcome thoughts, now or later, about this that we can do that would dramatize this in ways that take it to another level. I think we need to do that.

Mr. PATTEN. In a way, Kazakhstan's chairmanship is a blessing in disguise. And in the remaining 6 months, if they can take one or two positive steps, those could resonate in other countries. And taking criminal libel off the books would be one such step. I think it exists in seven separate Kazakh laws. I think the Kazakh Ministry of Foreign Affairs would like to move on this.

Ms. Mijatovic, when you're in Astana later this month, I would urge you to meet not only with the Ministry of Foreign Affairs, but also with the Ministry of Justice and with the Ministry of Interior, if they allow you to do so because that's where the action really has to happen—and also, the Presidential Secretariat—to be able to get libel off the books.

Now, the Kazakhs raised the issue that we also have criminal libel on the books. And I don't know, in obscure states, it exists on the books. It's never used because prosecutors know that there would be constitutional challenges to it. If we could make small steps in the right direction, symbolic steps, that, at least, would create an opening for the Kazakhs to reciprocate on those.

And also, look forward to next year, when Lithuania becomes the Chair-in-Office, because there'll be an opportunity to carry on this discussion in an important way. And, I think, quite possibly a more constructive one.

Mr. CARDIN. Congressman Smith?

Mr. SMITH. Thank you, Ms. Mijatovic, Mr. Chairman. Let me just ask—in the late 1980s, our delegation, from the Helsinki Commission, met with a large number of Duma members in Moscow when

Perestroika and Glasnost were beginning to have some meaning. That was before the first real election of the Duma.

And we had a number of breakout sessions with our counterparts in the Duma. And I was in a number of them, including the one on press freedom. I'll never forget when Mickey Edwards, who was a Member of Congress and a former editor—or publisher, I should say, of a newspaper—we were asked: what do you do when you're libeled, when false information goes out in the media?

And both Mickey Edwards—a former member from Oklahoma—and I explained that we write op-eds, we talk to the reporter, we find alternative media, we find some way of getting our message out and, first of all, we talk to the reporter. If that doesn't work and the false information stays, we try some other means. I'll never forget how they laughed. They broke out in laughter and said, well, he should go to prison.

And I'm wondering, to what degree since the '90s—or '80s, that was the late '80s—in Russia, that mindset vis-a-vis media freedom and the ability to have unfettered comments—hopefully, if there is true libel, although as public officials it's hard for us to—people can take to the courts and in a legitimate way get some kind of remedy.

Second, here in the United States and worldwide, obviously, there is no statute of limitations on murder. Ms. Mijatovic, I thank you in your written testimony—and I got here a little late, so I didn't get to hear it all, but I just read it—for admonishing us never to forget the brutal murders of journalists. In looking over your list, the names of the murdered journalists absolutely matches the very names that this Commission has steadfastly brought up in bilaterals and larger meetings with countries where we believe there has been complicity by the government.

You mentioned Slavko Curuvija. You might mind it of interest that I chaired a hearing with him prior to the bombing in the former Yugoslavia. Mr. Curuvija testified, and was absolutely brilliant in his presentation about the excesses of the Slobodan Milosevic dictatorship. And he did it all in open meetings. And right after the bombing began, he was summarily executed and that remains one of those—you know, there's never been a prosecution that we know of. Maybe you know of one.

But thank you because I do believe that, to a country that feels they can bide out the criticism from the West or from democracies—you know, it has to have a chilling effect on other journalists who say, look, they never did anything on this particular journalist. A reign of impunity continues.

The countries just need to fold their arms and do nothing and we never get satisfaction with, at least, a prosecution. If you could speak—maybe, all of you—to the chilling effect that that kind of impunity has in the current journalists. Because, maybe, you're a little less likely to be as aggressive as you might be if you know a jail cell or a bullet awaits you.

And then let me also, if you could, on the issue of anti-Semitic hate and those Web sites which, sadly, originate and are housed disproportionately in the United States. We have, as you know, the First Amendment. It's a hallowed human right that every American absolutely cherishes, but no human right is absolute. And you know, as you pointed attention to on child pornography, that's cer-

tainly not protected speech. And I would argue vigorously that anti-Semitic hate is not protected speech either, because it often leads to incitement of violence or the threat of violence.

And I wonder if you might give us some advice, since you're still on the panel, and maybe the others as well, how we can get around this seeming impediment to going after those who promote such virulent hate. I mean, one of the things that has been an absolute priority for this Commission has been combating anti-Semitism.

You know, we just keep learning more and more about just how virulent anti-Semitism really is. I remember at one of our OSCE PAs, we actually had the World Jewish Congress speak to the whole issue of what most of all, all of us, actually, would never see, in terms of video games that can be downloaded that go after Jews.

Just the [inaudible] asking twice testified before our Commission and brought the soap operas that pass for entertainment—largely, many of them, down in the Middle East, but they obviously, through satellite TV, make their way to homes all over Europe and, I guess, to the United States. And he showed us a clip.

And when the lights went back on, at that moment, Mr. Chairman—and Congressman Hastings—will remember very well, you know, you could have heard a pin drop, because it was just so sick, perverted. And yet that passes for—that's protected speech. So your advice, perhaps, on how we can continue, in our case, to cherish this First Amendment, freedom of speech right, which is in our Constitution, but realize that this is anything but, in my opinion?

Mr. PATTEN. Well, I think you raise an important issue, in terms of protected speech and hate speech, particularly next year as Lithuania takes the chairmanship. The Russians are going to make a big deal out of this, with respect to different views of history as opposed to anti-Semitism. And it will very likely be an important issue in the Lithuanian chairmanship.

I'm a little bit limited in terms of actual, you know, solutions that I offer, except I think Oliver Wendell Holmes said the best antidote to bad ideas is good ideas. So keeping the Internet open and providing more contravening information—which the Russians certainly do in a negative sense. When good information comes into Russia, you see mobbers and other bloggers come on and put a lot of negative information to try and lose that in a larger stream. But the more that can be focused on media content and corrective information, perhaps, that could be useful.

Mr. SULEYMANOV. Yes, I agree with Sam talking about the use—the very use of this legislation, whether or not [inaudible]. It's a really tricky question, because—Sam brought it up—in Russia they largely use extremism charges against media Web sites. Those extremism laws had been developed to counter neo-Nazis on the Internet, the spread of hate speech. But they have been abused severely.

And I can't say specifically how to develop, and what should be developed as a law—like, what should be incorporated, how to counter the hate speech and how to put a margin between the two—between the freedom of speech and between the hate speech. But those bad examples of the countries where the legislation is being abused should be taken into consideration.

Ms. MIJATOVIC. Let me just add there that this is a whole new subject. I mean, hate speech is such—it's a very worrying trend and the problem that we are facing in many countries. But it's also—I would call it a double-edged sword because, you know, sometimes it's used as if it's a tool to explain that any critical voice, or anything that is provocative, and is then understood as hate speech. And when I talk about this, I really use my own experience, from my own country and from the region, when it comes to hate speech of any kind.

If I may just, you know, say that the issues that you raised are, of course, you know, extremely problematic, but the best tool, and the best way is education. I do not see any other tool that can solve this problem, short-term or long-term. Education of our citizens, education of journalists—using all possible ways to reach people, to discuss these issues.

And it's not a problem that can be solved overnight. And it's not something that this office, or, you know, different offices that are meeting these issues can solve in a moment. But I think that, you know, coordination between different institutions—working with NGOs, with journalists, working with the public—and for this Commission—I mean, just, you know, the very fact that you are raising these issues constantly and this is not the first hearing. My predecessors, both of them, had the opportunity to talk before this Commission.

So this is not a new attempt. So it's happening all the time and I would welcome and—you know, some people, I bet, it's so important because the message is sent to all those parts of the world where people are struggling to have free speech, and to have a possibility to freely express themselves.

And when it comes to OSCE—and you also raised it, Chairman Cardin—what can we do? What can an institution like this one do in order to fulfill the mandate even better? I think it is the right time to strengthen and to, in a way, implement the existing commitments. Because I see the problem in the implementation of the existing OSCE commitments when it comes to media freedom. So strengthening the existing commitments, and raising the voice of the importance that all 56 member states are really complying with these commitments is something that might help.

Mr. SMITH. Let me just—one final—thank you, Mr. Chairman. Ms. Mijatovic, you might be the one to answer this, but the other distinguished witnesses might want to touch on it as well. The whole case for the Global Online Freedom Act—not the whole case, but the primary impetus came out of the arrest and incarceration of a journalist named Shi Tao in China. His e-mail was intercepted by the Chinese secret police, the cyberpolice, and because of that, he got 10 years in prison.

The only thing he had sent that was used to convict him was information about what not to do vis-a-vis Tiananmen Square, when the massacre remembrance came up in early June. And he sent it to an NGO in New York. And for that, they apprehended him. They had all the information they needed.

They had all of his contacts, so other people—you know, almost like the list begets another list begets another list—and the Chinese government, it seems to me, has perfected this tool of repres-

sion better than anybody else on earth. Vietnam has picked up on it, Belarus, the other countries that—Turkmenistan.

My question is, in your view, what influence is the Chinese—I mean, they're a talking point on Internet repression. I don't know anybody else who has done it better and maybe you could disagree. I'd love to hear it. But what influence are you seeing on the ground in OSCE countries, particularly the top five I mentioned and the ones that you have focused on, with regards to Chinese influence, with regards to sharing worst practices with those countries? If you could speak to that.

Ms. MIJATOVIC. When it comes to the influence that it has on certain, you know, OSCE countries, I think it had an influence on the whole world. But the best thing—if there is anything good—that it was so much discussed in public. It was so well-known, you know, the way this is happening in China.

When it comes to the influence on certain countries of the OSCE, or sharing the certain tools—you know, how to do it, I really do not know, and I do hope that this is not a fact—that actually this is not happening—because you know, different countries are inventing different tools of suppression and restriction on the Internet. They are using it by blogging. You know, some countries are using it by introducing different legislation.

But again, I repeat it, and this is the third time today, in the long run it is the wrong battle, because the means that can be found—I mean, there are different means, but people always—and what is happening in Turkey with YouTube. I was present in Turkey when a certain YouTube clip was blocked, and you could not access it via Internet Explorer, but people found a way how to use a different, you know, engine search in order to see this clip.

So there are always ways. And the governments will try to suppress—and it was also happening with traditional media, until we found certain standards. But you know, the China case has influenced to industry, to society—also on the good side because we are aware of this problem. We are aware, and we are doing to find the best possible way to stop this kind of—

Mr. SMITH. We understand that China has sent Internet advisors to the Central Asian countries. If that's something you could look into, you know, in your role, that would make an enormous difference because obviously, they're sharing—we think, you know—how to apprehend journalists. And the best and the bravest and the brightest in all of these countries simply want human rights respected.

Mr. PATTEN. Russia would be probably the next area of concern, because clearly the Chinese are far ahead of the Russians. Internet penetration is approaching 40 percent in Russia. And I think the Russians are probably learning from Chairman Mao in terms of letting a hundred flowers bloom. They're watching; they're waiting. And when the time comes, there'll be more repressions in Russia. I think China's certainly a market leader in terms of Internet repression.

Mr. CARDIN. Well, let me thank all three of our witnesses. This has been extremely helpful to us. We can assure you that this is a continuing interest and we will request that—particularly Secretary Posner's request as to specific information on cases. It's very

helpful for us to have that. And we will raise these issues at every opportunity we can. But we do think putting a face on the issue is critically important, so as much of the information as you could share with the Commission would be helpful.

And Ms. Mijatovic as regards to your work as OSCE Representative on Freedom of the Media, we want to work with you. So please share with us your strategies. We think we need to take advantage of every opportunity we can to elevate the importance of this issue. The trend lines are not the way we want to see them.

We want to see progress made and I wish we could spend most of our time highlighting the favorable practices of countries that are taking steps to open up the brief discussion of views in their country, including investigative reporting. So we look forward to working with you over strategy to reverse the current trends and to be able to highlight progress that has been made. And with that, the Commission will stand adjourned. Thanks, everyone.

[Whereupon, at 10:54 a.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, I welcome this opportunity to revisit the issue of freedom of the media, an issue of longstanding interest and concern. In observance of World Press Freedom Day, in early May, Freedom House has released its annual press freedom index, "Freedom of the Press 2010" an analysis of media developments around the world. The report designates 10 countries as particularly egregious for the wide-ranging restrictions they impose on independent media. Regrettably, three OSCE participating States have earned this distinction according to Freedom House: Belarus, Turkmenistan and Uzbekistan.

"In these states, independent media are either nonexistent or barely able to operate," the report noted. The media environment in these countries is of particular concern as limits on the free flow of information and the inability of independent journalists to function are often indicative of restrictions elsewhere in society, especially in terms of democratic development, human rights and the rule of law.

Today, I would like to draw attention to concerns over the use—or perhaps more accurately, the abuse—of laws by these and other governments in the OSCE region aimed at maintaining tight control over the free media, including statutes imposing crippling penalties for defamation, burdensome registration requirements, and far-reaching "anti-extremism" measures, among others. Additionally, I note that a growing number of OSCE countries are enacting legal provisions specifically targeting use of the Internet and emerging communications technologies. Increasingly, governments seeking to curtail criticism or dissent are cracking down on bloggers, often employing sophisticated equipment to aid in this form of censorship.

While numerous OSCE countries have criminal defamation statutes on the books, they have fallen into disuse in most. Some countries have moved in recent years to reform or eliminate such provisions altogether. Others continue to use them, sometimes resulting in the effective closure of media outlets forced to pay large fines in cases often launched by or on behalf of public officials. The time has come for participating States that have not already done so to repeal such laws.

Thank you Mr. Chairman for convening this hearing and I look forward to the testimony of the OSCE Representative on Freedom of the Media and the other experts before us today.

**PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH,
RANKING MEMBER, COMMISSION ON SECURITY AND CO-
OPERATION IN EUROPE**

Thank you, Mr. Chairman, and welcome to our witnesses and everyone joining us this morning.

Mr. Chairman, I am sorry to say that, thirty-five years after the signing of the Helsinki Final Act, and twenty years after the fall of the Berlin Wall, the press is not free and journalists are targeted for harassment, beatings, or even murdered, in a number of OSCE countries—most of them semi- or pseudo-democratic states that emerged from the breakup of the USSR. Those slain have often crossed local officials and their private-sector cronies by uncovering corruption or investigating human rights abuses.

Mr. Chairman, this commission has a long and proud record of meeting with and advocating for, persecuted journalists and the surviving relatives of journalists who have been murdered. Today I particularly want to remember Georgiy Gongadze, a Ukrainian journalist of Georgian origin, tragically kidnapped and murdered while investigating high-level corruption. We are approaching the 10th anniversary of his death, and, while some officials are now in prison for the crime, those who gave the order to kill him have yet to be brought to justice—a former Interior Minister was murdered just hours before he was to provide testimony in the case. I urge the government of Ukraine to pursue every lead in this case—wherever and to whomever they may lead. (I understand his widow, Myroslava, is here with us today. Please stand up so that we can thank you for continuing to struggle for justice in your husband's case.)

Mr. Chairman, journalists are also affected by the sad trend of recent years to transform the Internet into a tool for censorship and surveillance. This is not limited to China, southern Asia, the Middle East, and Africa. Two of Reporters Without Borders' top twelve "Enemies of the Internet" are OSCE participating states—Turkmenistan and Uzbekistan. And, also in respect of the Internet, three of this same NGO's eleven "Countries under Surveillance" are participating states: Belarus, Russia, and Turkey.

Mr. Chairman, Congress has a responsibility to promote the human right of freedom of expression, enshrined in all the major human rights agreements, and OSCE agreements. I believe that the Global Online Freedom Act, the legislation I crafted in 2006 and re-introduced in this Congress, by giving IT companies the US-government back-up they need to negotiate with repressive governments, would do a great deal to improve the atmosphere of media freedom globally, including in OSCE countries.

Let me describe the bill's key provisions. The bill would establish an Office of Global Internet Freedom in the State Department, which would annually designate "Internet restricting countries"—countries that substantially restrict Internet freedom relating to the peaceful expression of political, religious, or ideological opinion or belief. US IT companies would have to report to the State Department any requirement by a repressive government for filtering or censoring search terms—and the State Department would make the terms and parameters of filtering public knowledge, thus "naming and shaming" the repressive countries.

US IT companies would also have to store personally identifying information outside of Internet-restricting countries, so that the repressive governments wouldn't be able to get their hands on it to track journalists or dissidents. US IT companies would have to notify the Attorney General whenever they received a request for personally identifying information from a repressive country—and the Attorney General would have the authority to order the IT companies not to comply, if there was reason to believe the repressive government seeks the information for other than legitimate law-enforcement purposes.

In short: by giving US IT companies the back-up of the U.S. government, it would help to set a new global standard. If an OSCE government tells them to filter a search term, they can point to the GOFA and say that US law doesn't permit it. If the government's Internet police intercept a human rights activist's e-mail, and demand the company turn over personally identifying information on the account, the company will notify the AG, who can then bring the weight of the US government into the matter.

GOFA is ready to go to the House floor. It has the distinction of being endorsed by Google as well as a long list of human rights groups—Freedom House, Reporters Without Borders, Amnesty International, Human Rights Watch, Committee to Protect Journalists, and others. In the last Congress it was passed by three committees and was ready to go to the floor—and I believe it would have easily won a floor vote. But it was kept off the floor by heavy lobbying and politics.

That's why we need the US government to weigh in with a bill that would help the Internet companies do what they ought to do, and what some of the best of them, like Google, clearly want to do—stand up to repressive governments.

PREPARED STATEMENT OF DUNJA MIJATOVIC, REPRESENTATIVE ON FREEDOM OF THE MEDIA, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Dear Chairmen, Distinguished Commissioners, Ladies and Gentlemen,

I am honored to be invited to this hearing before the Helsinki Commission at the very beginning of my mandate. I feel privileged to speak before you today. The Helsinki Commission's welcoming statement issued on the day of my appointment is a clear manifestation of the strong support you continuously show toward the work of this unique Office, and I assure you, distinguished Commissioners, that this fact is very much appreciated.

It will be three months tomorrow since I took office as the new Representative on Freedom of the Media to the OSCE. Even though three months may sound short, it has proved more than enough to gain a deep insight, and unfortunately also voice concerns, about the decline of media freedom in many of the 56 countries that today constitute the OSCE.

Although the challenges and dangers that journalists face in our countries may differ from region to region, one sad fact holds true everywhere: The freedom to express ourselves is questioned and challenged from many sides. Some of these challenges are blatant, others concealed; some of them follow traditional methods to silence free speech and critical voices, some use new technologies to suppress and restrict the free flow of information and media pluralism; and far too many result in physical harassment and deadly violence against journalists.

Today, I would like to draw your attention to the constant struggle of so many institutions and NGO's around the world, including your Commission and my Institution, to combat and ultimately stop violence against journalists. I would also like to address several other challenges that I want to place in the center of my professional activities, each of which I intend to improve by relentlessly using the public voice I am now given at the OSCE.

Let me first start with violence against journalists.

Ever since it was created in 1997, my Office has been raising attention to the alarming increase of violent attacks against journalists. Not only is the high number of violent attacks against journalists a cause for concern. Equally alarming is the authorities' far-too-prevalent willingness to classify many of the murders as unrelated to the journalists' professional activities. We also see that more and more often critical speech is being punished with questionable charges brought against the journalists.

Impunity of perpetrators and the responsible authorities' passivity in investigating and failing to publicly condemn these murders breeds further violence.

There are numerous cases that need to be raised over and over again. We need to continue to loudly repeat the names of these courageous individuals who lost their lives for the words they have written. I am sorry for all those whom I will not mention today; but the names that follow are on the list that I call "the Hall of Shame" of those Governments that still have not brought to justice the perpetrators of the horrifying murders that happened in their countries.

- The most recent murder of a journalist in the OSCE area is the one of the Kyrgyz opposition journalist Gennady Pavlyuk (Bely Parokhod), who was killed in Kazakhstan in December last year. It gives me hope that the new Interim Government of Kyrgyzstan has announced to save no efforts to bring the perpetrators to justice, as well as those involved in the 2007 murder of Alisher Saipov (Siyosat).

- The Russian Federation remains the OSCE participating State where most members of the media are killed. Paul Klebnikov (Forbes, Russia), Anna Politkovskaya (Novaya Gazeta), Anastasia Baburova (Novaya Gazeta), are the most reported about, but let us also remember Magomed Yevloyev (Ingushetiya), Ivan Safronov (Kommersant), Yury Shchekochikhin (Novaya Gazeta), Igor Domnikov (Novaya Gazeta), Vladislav Listyev (ORT), Dmitry Kholodov (Moskovsky Komsomolets) and many others.

We also should not forget the brutal murders of the following journalists, some remain unresolved today:

- Hrant Dink (Agos) Armenian Turkish journalist was shot in 2007 in Turkey.

- Elmar Huseynov (Monitor) was murdered in 2005 in Azerbaijan.

- Georgy Gongadze (Ukrainskaya Pravda) was killed in 2000 in Ukraine.

- In Serbia, Slavko Curuvija (Dnevni Telegraph) was murdered in 1999, and

- Milan Pantic (Vecernje Novosti) was killed in 2001.

- In Montenegro, Dusko Jovanovic (Dan), was shot dead in 2004.

- In Croatia, Ivo Pukanic (Nacional) and his marketing director, Niko Franjic, were killed by a car bomb in 2008.

Violence against journalists equals violence against society and democracy, and it should be met with harsh condemnation and prosecution of the perpetrators. There can be no improvement without an overhaul of the very apparatus of prosecution and law enforcement, starting from the very top of the Government pyramid.

There is no true press freedom as long as journalists have to fear for their lives while performing their work. The OSCE commitments oblige all participating States to provide safety to these journalists, and I will do my best to pursue this goal with the mandate I am given and with all professional tools at my disposal.

We also observe another very worrying trend; more and more often the imprisonment of critical journalists based on political motivations including fabricated charges. Let me mention some cases:

- In Azerbaijan, the prominent editor-in-chief of the now-closed independent Russian-language weekly, Realny Azerbaijan, and Azeri-language daily, Gundalik Azarbaycan, Eynulla Fatullayev was sentenced in 2007 to a cumulative eight-and-a-half years in prison on charges on defamation, incitement of ethnic hatred, terrorism and tax evasion. The European Court of Human Rights (ECtHR) found Azerbaijan in violation of Article 10 and Article 6, paragraphs 1 and 2 of the European Convention on Human Rights, so there is only one possible outcome—Fatullayev should be immediately released.

- In Kazakhstan, Ramazan Yesergepov, the editor of Alma-Ata Info, is serving a three-year prison term on charges of disclosing state secrets.

- Emin Milli and Adnan Hajizade, bloggers from Azerbaijan, are serving two and a half years and two years in prison respectively since July 2009 on charges of hooliganism and infliction of light bodily injuries.

- In Uzbekistan, two independent journalists, Dilmurod Saiid (a freelancer) and Solijon Abdurahmanov (Uznews), are currently serving long jail sentences (twelve-and-a-half-year and ten years) on charges of extortion and drugs possession.

I will continue to raise my voice and demand the immediate release of media workers imprisoned for their critical work.

I join Chairman Cardin for commending independent journalists in the Helsinki Commission's recent statement on World Press Freedom Day. These professionals pursue truth wherever it may lead them, often at great personal risk. They indeed play a crucial and indispensable role in advancing democracy and human rights.

By highlighting these murder and imprisonment cases, by no means do I intend to neglect other forms of harassment or intimidation that also have a threatening effect on journalists. Let me just recall that, with the heightened security concerns in the last decade, police and prosecutors have increasingly raided editorial offices, journalists' homes, or seized their equipment to find leaks that were perceived as security threats.

SUPPRESSION AND RESTRICTION OF INTERNET FREEDOM

Turning to the problems facing Internet freedom, we can see that new media have changed the communications and education landscape in an even more dramatic manner than did the broadcast media in the last half century. Under my mandate, the challenge has remained the same: how to safeguard or enhance pluralism and the free flow of information, both classical Helsinki obligations within the OSCE.

It was in 1998 that I read the words of Vinton G. Cerf in his article called "Truth and the Internet". It perfectly summarizes the nature of the Internet and the ways it can create freedom.

Dr. Cerf calls the Internet one of the most powerful agents of freedom: It exposes truth to those who wish to see it. But he also warns us that the power of the Internet is like a two-edged sword: it can also deliver misinformation and uncorroborated opinion with equal ease. The thoughtful and the thoughtless co-exist side by side in the Internet's electronic universe. What is to be done, asks Cerf.

His answer is to apply critical thinking. Consider the Internet as an opportunity to educate us all. We truly must think about what we see and hear, and we must evaluate and select. We must choose our guides. Furthermore, we must also teach our children to think more deeply about what they see and hear. That, more than any electronic filter, he says, will build a foundation upon which truth can stand.

Today, this foundation upon which truth could indeed so firmly stand is under continuous pressure by governments. As soon as governments realized that the Internet challenges secrecy and censorship, corruption, inefficiency and bad governing, they started

imposing controls on it. In many countries and in many ways the effects are visible and they indeed threaten the potential for information to circulate freely.

The digital age offers the promise of a truly democratic culture of participation and interactivity. Realizing that promise is the challenge of our times. In the age of the borderless Internet, the protection of the right to Freedom of Expression “regardless of frontiers” takes on a new and more powerful meaning.

In an age of rapid technological change and convergence, archaic governmental controls over the media are increasingly unjust, indefensible and ultimately unsustainable. Despite progress, many challenges remain, including the lack of or poor quality of national legislation relating to freedom of information, a low level of implementation in many OSCE member states and existing political resistance.

The importance of providing free access for all people anywhere in the world can not be raised often enough in the public arena, and can not be discussed often enough among stakeholders: civil society, media, as well as local and international authorities.

Freedom of speech is more than a choice about which media products to consume. Media freedom and freedom of speech in the digital age also mean giving everyone—not just a small number of people who own the dominant modes of mass communication, but ordinary people, too—an opportunity to use these new technologies to participate, interact, build, route around and talk about whatever they wish—be it politics, public issues or popular culture.

The Internet fundamentally affects how we live. It offers extraordinary opportunities for us to learn, trade, connect, create and also to safeguard human rights and strengthen democratic values. It allows us to hear each other, see each other and speak to each other. It can connect isolated people and help them through their personal problems.

These rights, possibilities and ideals are at the heart of the Helsinki Process and the OSCE principles and commitments that we share. We must find the best ways to spread access to the Internet, so that the whole world can benefit from what it can offer, rather than increasing the existing gaps between those who have access to information and those who do not. And to those governments who fear and distrust the openness brought along by the Internet, let me emphasize over and over again: The way a society uses the new communications technologies and how it responds to economic, political and cultural globalization will determine the very future of that society.

Restrict access to information, and your chances to develop will become restricted. Open up the channels of free communication, and your society will find ways to prosper.

I was delighted to hear Secretary of State Clinton speak about a basic freedom in her January speech on Internet freedom in the “Newseum”. This freedom is the freedom to connect. Secretary Clinton rightly calls this freedom the freedom of assembly in cyber space. It allows us to come together online, and shape our society in fundamental ways. Fame or money is no longer a requisite to immensely affect our world.

My Office is rapidly developing a comprehensive strategy to identify the main problems related to Internet regulation in the 56 countries of the OSCE, and ways to address these issues. I will count on the support of the Helsinki Commission to advance the universal values that this strategy will attempt to extend to those countries where these values are still being questioned.

Let me also mention the importance to protect the freedom of other new technologies.

Only two weeks ago, my Office organized the 12th Central Asia Media Conference in Dushanbe, Tajikistan, where media professionals from all five Central Asian countries adopted a declaration on access to information and new technologies. This document calls on OSCE governments to facilitate the freer and wider dissemination of information, including through modern information and communication technologies, so as to ensure wide access of the public to governmental information.

It also reiterates that new technologies strengthen democracy by ensuring easy access to information, and calls upon state institutions with legislative competencies to refrain from adopting new legislation that would restrict the free flow of information.

And only this spring my Office published a guide to the digital switchover, to assist the many OSCE countries where the switch from analogue to digital will take place in the next five years. The aim of the guide is to help plan the digitalization process, and help ensure that it positively affects media freedom, as well as the choice and quality available to the audience.

Besides advocating the importance of good digitalization strategies, I will also use all available fora to raise attention to the alarming lack of broadcast pluralism, especially television broadcast pluralism, in many OSCE countries. As television is the main source of information in many OSCE regions, we must ensure that the laws allow for diverse, high-quality programs and objective news to easily reach every one of us. Only well-informed citizens can make good choices and further democratic values.

Whether we talk about Internet regulation, inventive ways to switch to digital while preserving the dominance of a few selected broadcasters, attempts to limit access to information or broadcast pluralism, we must keep one thing in mind: No matter what governments do, in the long run, their attempts to regulate is a lost battle.

People always find ways to obtain the rights that are denied to them. History has shown this over and over again. In the short run, however, it is very clear that I will intervene with governments which try to restrict the free flow of information.

DEFAMATION

Similar to fighting violence against journalists, my Office has been campaigning since its establishment in 1997 to decriminalize defamation and libel in the entire OSCE region.

Unfortunately, in most countries, defamation is still punishable by imprisonment, which threatens the existence of critical speech in the media. This is so despite the consistent rulings of the European Court of Human Rights in Strasbourg, stating that imprison-

ment for speech offences, especially when committed by criticizing public figures, is a disproportionate punishment.

Let us again remind ourselves of the journalists and bloggers I have mentioned above when discussing violence against journalists. They are currently in prison because their writing was considered defamatory. Their fate reminds us all of the importance of the right to freely speak our mind.

This problem needs urgent reform not only in the new, but also in the old democracies of the OSCE. Although the obsolete criminal provisions have not been used in Western Europe for decades, their “chilling effect” remained. Furthermore, the mere existence of these provisions has served as a justification for other states that are unwilling to stop the criminalization of journalistic errors, and instead leave these offenses solely to the civil-law domain.

Currently, defamation is a criminal offence in all but ten OSCE countries—my home country Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Ireland, Moldova, Romania, Ukraine, the United Kingdom and the United States.

Last year, three OSCE countries decriminalized defamation, which I consider to be an enormous success: Ireland, Romania and the United Kingdom; the last being the first among the Western European participating States to officially decriminalize defamation.

Some other countries, such as Armenia, are currently reforming their defamation provisions, and I hope that I can soon welcome the next country that carries out this important and very long overdue reform.

CONCLUDING REMARKS

Dear Chairmen,
Dear Commissioners,
Ladies and Gentlemen,

The above problematic areas—violence against journalists, restrictions of new media including the Internet, lack of pluralism and resistance to decriminalize defamation—are among the most urgent media freedom problems that need our attention and concentrated efforts today.

However, we will also not forget about the many other fields where there is plenty of room to improve. Of course, I will not miss the excellent opportunity that we are here together today to raise your attention to the topic that my distinguished predecessor, Miklos Haraszti, has already raised with you: the establishment and the adoption of a federal shield law in the United States.

As you know, my Office has been a dedicated promoter of the federal shield law for many years. If passed, the Free Flow of Information Act would provide a stronger protection to journalists; it could ensure that imprisonments such as that of Judith Miller in 2005, and Josh Wolf in 2006, could never again take place and hinder investigative journalism. But the passage of such legislation would resonate far further than within the borders of the United States of America. It could send a very much needed signal and set a precedent to all the countries where protection of sources is still opposed by the government and is still not more than a dream for journalists.

I respectfully ask all of you, distinguished Commissioners, to continue and even increase your efforts to enable that the Free Flow of Information Act soon becomes the latest protector of media freedom in the United States.

And of course I can not close my speech without mentioning my home country, Bosnia and Herzegovina. As you know, not only Bosnia and Herzegovina, but also most of the emerging democracies in the Balkans enjoy modern and forward-looking media legislation. We can openly say that they almost have it all when it comes to an advanced legal and regulatory framework enabling free expression to thrive. But it is not that simple. I use this moment to pose several questions: if there are good laws, then why do we still face severe problems in relation to media freedom, why do we stagnate and sometimes even move backward? Where does the problem lie? And, more importantly, how can we solve it and move ahead?

What Bosnia and Herzegovina shows us is that good laws in themselves are not enough. Without their good implementation, they are only documents filled with unrealized potential. In countries that struggle with similar problems, we must stress over and over again: without the full implementation of valid legislation, without genuine political will, without a comprehensive understanding of the media's role in a functioning democracy, without the creation of a safe environment for journalists to do their work, and without true commitment by all actors, these countries risk falling far behind international standards.

Apart from unmet expectations and disillusioned citizens, we all know that the consequences of politicized and misused media could be very serious.

In conclusion, let me assure you, dear Commissioners, that I will not hesitate to openly and vigorously remind any country of their responsibilities toward implementing the OSCE commitments to the freedom of the media.

I am also asking you to use this opportunity today and send a clear message to the governments of all OSCE countries to do their utmost to fully implement their media legislation safeguarding freedom of expression. The governments have the power to create an environment in which media can perform their unique role free of pressures and threats. Without this, no democracy can flourish.

Thank you for your attention.

WORLD PRESS FREEDOM DAY UNDERSCORES HOW INDEPENDENT MEDIA FACE REPRISALS IN GROWING NUMBER OF OSCE COUNTRIES

Journalists targeted for exposing rights abuses, corruption

WASHINGTON—In conjunction with World Press Freedom Day, marked annually on May 3rd, the leaders of the bicameral, bipartisan U.S. Commission on Security and Cooperation in Europe (The U.S. Helsinki Commission), today spotlighted what they called “disturbing trends” affecting media freedom in the OSCE region.

“I am deeply concerned by the precipitous decline in press freedom in a number of OSCE countries over the past year,” said Representative Christopher H. Smith (NJ-04), Chairman of and Commission and a leading human rights lawmaker in the U.S. Con-

gress. “Independent media committed to honest reporting are essential to any genuinely democratic society,” Smith added. “We have always known that egregious violations of freedom of the press are commonplace in countries where democracy is held in outright contempt. Yet over the past year we have seen stepped up attempts to muzzle independent media and journalists. As a case in point, Smith cited repeated police raids targeting the Belarus’ beleaguered independent media and arrests of journalists.

“I call upon the regime in Belarus to end its unrelenting campaign against independent media and individual journalists as well as to bring its policies, including those restricting access to the Internet, into line with its OSCE commitments,” urged Smith, sponsor of the Belarus Democracy Act and related measures, including the Belarus Democracy and Human Rights Act of 2011, which seeks to support democratic activists and break the information blockade erected by the regime.

Senator Ben Cardin (D-MD), Commission Co-Chairman noted that many countries need to take legislative steps to better protect journalistic and a free press within their own borders.

“Instead of promoting the freer and wider dissemination of information, numerous OSCE countries are imposing myriad restrictions on independent media outlets, frequently targeting journalists responsible for exposing human rights abuses and corruption,” Cardin said. “I again urge participating States to repeal criminal defamation statutes, one device often used in an attempt to muzzle independent media.”

Cardin decried the fact that “seemingly on a daily basis we receive reports documenting harassment of independent media and journalists by the authorities in some participating States. From burdensome registration requirements or visits by the tax police to the confiscation of entire print runs or imposition of crippling fines from criminal charges for defamation of individuals, institutions or the state, free media face a multitude of threats and challenges today.”

In addition to pointing to Belarus, Smith also condemned the deplorable situation in Turkmenistan and Uzbekistan, expressed concern at the heightened repression of independent media in Azerbaijan and Turkey as well as ongoing reprisals against journalists in Russia and Kazakhstan. Additionally, Smith noted with concern the backsliding on media freedoms in Ukraine.

Chairman Smith and Co-Chairman Cardin welcomed the important work of OSCE Representative on Freedom of the Media Dunja Mijatović, who testified at a Helsinki Commission hearing, “Threats to Free Media in the OSCE Region.”

Both the Chairman and Co-Chairman welcomed the initiative of the Lithuanian OSCE chairmanship to convene a conference, early next month in Vilnius, on safety of journalists in the OSCE region. Dozens of investigative journalists, including American Paul Klebnikov, have been murdered over the past decade in a handful of OSCE countries, with few of the perpetrators brought to justice.

“I commend Lithuanian Foreign Minister Ažubalis for taking the initiative to convene a conference on safety of journalists,” said Smith, “in several OSCE countries a career in journalists is a high-risk profession with some paying the ultimate price for pursuit of the truth.”

**PREPARED STATEMENT OF SAM PATTEN, SENIOR PROGRAM
MANAGER FOR EURASIA, FREEDOM HOUSE**

Co-Chairman Cardin, Co-Chairman Hastings, members of the Commission, thank you for the opportunity to join this panel today on behalf of Freedom House to discuss threats to the free media in the OSCE region. This is not only a timely hearing—given that this is Dunja Mijatovic’s first official visit to Washington as the newly appointed OSCE Representative on Freedom of the Media—but also an urgent one, because it comes at a time when the worst practices of those who threaten freedom of the media are intensifying, as Freedom House noted in its 2009 Freedom of the Press survey that details broad setbacks to global media freedom. While three of the ten of the world’s worst-rated are within the OSCE region, more than half of those who currently live in Central and Eastern Europe and the former Soviet Union live in ‘Not Free’ media environments, and only 18 percent of this broad and expansive category had access to free media last year. More serious than the decline this region saw between 2009 and 2008, however, is the sense that the bar for media freedoms may be lowering not only in these countries, but potentially across the 56-country membership of the OSCE.

State censorship and other curbs on media freedom may be seen as behaving in a manner similar to that of a terminal disease, like cancer. In better times, the disease is in remission, allowing healthy cells to strengthen and grow. In worse times, the disease spreads, sometimes mutating its form but always advancing negative effects. The situation we currently see, regrettably, is in this latter category. In a number of former Soviet states, the first symptoms of this disease—whether seen through the take-over of media companies, the passage of restrictive laws on the media and Internet, or targeted harassment of journalists—have been harbingers of shifts towards authoritarianism. The effects of this disease include the hobbling of any real efforts to fight corruption, the quarantining of foreign investment in the main, and an emasculation of civil society. Each of these related ills often occur in environments where restricting the media is the first, enabling step on the agenda of those who have the most to lose from transparency and accountability.

In 2007, Freedom House issued a special report entitled “Muzzling the Media: The Return of Censorship in the Commonwealth of Independent States.” The report described how a “brutal, efficiently-repressive 21st century media environment is made possible by a reconsolidated authoritarian model that has anchored itself from Belarus on the European Union’s eastern border to Kazakhstan on China’s western frontier.” Importantly, it contrasted the deterioration we have seen continue to the current day with the ephemera of press freedom that followed the end of the Soviet Union in the early and mid 1990s. Throughout the CIS countries, a steady erosion in media freedoms can be traced from the late 1990s to this report’s publication. Against this background, an appropriate question for us to address today is how have things changed since 2007 and what can be done to better defend media freedoms in the hopes of reversing this grim, regressive trend.

FACES OF THE THREAT

While the Soviet state may have appeared in some ways monolithic, its inheritor states do not necessarily march lock-step in unison. The broad trend of state control of the media is similar, but the trajectories of Russia, Kazakhstan, and Azerbaijan are slightly different, and it is helpful to acknowledge both the similarities and the differences among them.

Four consistent trends are evident throughout the experiences of these countries and others in the region. First, over the past decade, each of these countries' regimes has gradually intensified mass media control with a special focus on television. Often this occurred via proxies, as in the case of Russia, where state-controlled companies asserted management of television stations with national reach. Second, pliant legislatures passed laws that restricted media freedom and independent reporting. A paper that Freedom House is delivering in Copenhagen this week as part of an OSCE conference outlines Kazakhstan's case from 1999 to the present. Third, a broader crack-down on international media included the closures or harassment of such broadcasters as Voice of America, Radio Free Europe/Radio Liberty and the BBC—to be fair, Kazakhstan has distinguished itself by not interfering with international outlets, though Azerbaijan and Russia have done so in recent years with impunity. Finally, print media has come under a renewed crackdown in large part because of its expanded reach over the Internet. CIS regimes have differed in their responses to the Internet and the freedom of expression it affords their citizens, but we are concerned that the environment in each of these countries will become more and more restrictive as circumstances permit.

One telling anecdote reflects how the agents of state control actually think. At a roundtable with NGOs organized at the U.S. Department of State earlier this year, Kazakhstan's Deputy Foreign Minister, Kairat Umarov, was asked about the Internet law his country recently passed and specifically why it was necessary to impose on bloggers the same restrictions Kazakh authorities impose on traditional media. Umarov answered, "It is because [these websites] lie." Following this logic, the Kazakh state becomes the arbiter of truth. While the proponents of Internet restrictions may, in some cases, truly believe they are combating social harms, the prevailing wisdom in most of the OSCE's 56 member states is that job of discerning truth from lies belongs to the public at large, not to governments. The Kazakhs have yet to prosecute any bloggers under their now one year-old law, but its existence alone sends a chilling message to those seeking to express views in opposition to the government position.

In Russia, the government seeks to control news content on radio stations through a "50 percent rule," mandating that at least one half of news broadcasted be "positive" in nature. The burden of self-censorship becomes a weighty one for station managers and journalists, but direct state interference also continues when deemed necessary. For example, in 2003, I witnessed a seemingly independent local television station in a Western Siberian city cut off the live broadcast of its interview with an opposition political figure after receiving a call from Moscow. For the time being, how-

ever, the Internet in Russia remains relatively unfettered, even as penetration rates approach 40 percent nation-wide. Yet while President Dmitri Medvedev represents himself as his country's "Blogger-in-Chief," tactics of intimidation have been employed against dissident bloggers who are "mobbed" by abusive and sometimes threatening comments that "spontaneously" aggregate on those sites where they've expressed their alternative views. As Russian society becomes increasingly opposed to controls over the content on traditional media, it is reasonable to suspect that state authorities may take more restrictive measures over the Internet mirroring those in other CIS states.

Azerbaijan's "donkey" case is an illustration of how bad de facto government controls over the media have become. Last July, two young bloggers who were active in civil society posted on YouTube a video of a spoof press conference in which the government spokesman was portrayed as a donkey. Shortly afterwards, they were accosted in a public cafe by a gang of toughs who claimed to have been offended by the video and proceeded to physically assault the bloggers—Emin Milli and Adnan Hajizade. By a perverse twist of logic, the bloggers were then arrested for "hooliganism" and sentenced to prison terms, which they are continuing to serve in a maximum security facility widely reviled as being one of Azerbaijan's worst. The message this case sends to other Azeris who might consider speaking out via the Internet is chillingly clear, and Azerbaijan's government appears unmoved by the condemnation the imprisonment of Milli and Hajizade spurred from the Council of Europe. As the U.S. Senate prepares to confirm a new ambassador to Baku, it might well be appropriate to raise not only the bloggers' case, but also the rapidly deteriorating environment for freedom of expression in Azerbaijan.

Both Azerbaijan and Russia have either explicitly or de facto blocked broadcasting of USG-funded outlets from 2008 to the present. Just prior to its April revolution, the now-toppled Bakiev regime in Kyrgyzstan shut down broadcasting of RFE/RL as well as the BBC. As CPJ's Muzaffar Suleymenov may note, the murder of a Kyrgyz journalist in Almaty in December of last year heralded an intensification of authoritarian tendencies of the now-overthrown Kyrgyz president and his clan. In this sense, one may conclude that how harshly regimes react to voices attempting to express themselves freely may be an early warning indicator of deeper political instability. Individual cases, as seen with the Azeri bloggers, can also be tell-tales of governments' broader restrictions and reactions to shifting political circumstances. The recent arrest on charges of treason and forced televised confession of independent journalist Ernest Vardanian in the Transdniesterian city of Tiraspol may signal authorities' intentions in that break-away region to take a harder line on any opposing voices as it seeks assurances from its patrons in Moscow and asserts itself with a new government in neighboring Ukraine. In such cases, journalists and media outlets become hostages, sometimes literally, to increasingly repressive governments.

CONTAGIOUS CURBS ON EXPRESSION

In surveying the recent behavior of just a handful of former Soviet states on the issue of media freedom, distinct trends emerge: consolidated control of traditional broadcast outlets, new and onerous restrictions on the independent media, the marginalization of outside news sources, and creeping controls over the Internet. The similarities are easily explained by a common history of totalitarian rule under the Soviet Union, in which the “worst practices” of censorship or intimidation were uniformly applied, while the differences stem mainly from more recent historical experiences over the last two decades. What is less easily explained, and for that reason perhaps more troubling, is the wider reflection of this trend towards curbing media freedom seen over the last several years in other OSCE states.

Examples can be discerned in OSCE member countries rarely considered to be in the same category, such as Italy. Over the course of the last year, Italian Prime Minister Silvio Berlusconi—himself a former media mogul—routinely clashed with the media over coverage of his private life and filed lawsuits against critical outlets. One effect of this was seen in the state broadcaster’s censoring content critical of Berlusconi. Italy has also raised the issue of intermediate liability for Internet providers after a state prosecutor took action against Google following the posting of a graphically violent and offensive video. Taken to its logical conclusion, intermediate liability could become a source of massive self-censorship globally, should websites be held accountable for all content that they post, and in this respect the Italian case could become a key precedent with very broad consequences.

Also troubling, Britain has seen an uptick in instances of “libel tourism,” where foreign business magnates, princes, and other powerful individuals have turned to its court system to quash critical research or commentary. Given the growing number of extremely wealthy individuals from the former Soviet Union who have transferred considerable assets and at least partial residency to Britain, it makes sense why the country’s court system is seen as a venue for airing grievances rooted far from its shores. The effects of judgments there that fine for libel or enjoin free speech are felt throughout the OSCE region.

Turkey, which is increasingly engaged with its neighboring countries through its “no problems” foreign policy, continued to exercise restrictive press laws and frequently shut down websites operating within its borders. The example of Turkey also raises the complicated issue of countries that legislate to protect national characteristics, which has twice led to the shut-down of YouTube in Turkey following the posting of materials considered offensive to the memory of state-builder Kemal Ataturk. Hate crimes and hate speech could also fall into this category and create substantial complications for media freedom, should a succession of national taboos restrict an inherently international medium. Efforts to combat extremism or terrorism have the potential to curb expression on the Internet, as does the equally laudable intention of preventing child pornography. Voluntary, collective efforts that bring governments, corporations and non-profits together to craft standards for the

Internet offer a better-nuanced approach to protecting legitimate interests without trampling on media freedom. Freedom House has been closely tracking the Global Network Initiative, which is among the more promising endeavors in this regard.

While the Internet raises global questions well beyond the OSCE region, the relative freedom it has afforded for expression has helped compensate for the restrictions on media freedoms in a number of OSCE member states. The broad-based Internet blockages seen in countries like Uzbekistan are presently the exception as opposed to the norm, but given the absence of cooperative efforts to defend media freedom on the Internet, it is very likely that state-sponsored restrictions on the Internet will proliferate from Vilnius to Vladivostok.

More generally, when the standards for defending media freedom are lowered—whether by the intentional actions of states to limit expression or the unintended consequences of policing Internet content—a contagious effect follows. Given the downward trend of media freedom globally, defending expression in OSCE countries calls for renewed commitment to combating censorship and, when in doubt, keeping channels of communication more open than restricted. When free speech is aggressively challenged through censorship, physical intimidation or actions in courts, the wrong lesson is too often that discretion is the better part of valor and self-censorship is preferable to retribution. The contagion is rooted both in prudence and fear. Regardless of whether the linkages are direct or circumstantial, the trend—globally—is one of weakening media freedoms.

WHAT THE UNITED STATES AND THE OSCE CAN DO

Having identified systemic threats to freedom of the media, it is the responsibility of OSCE states that value freedom of expression to proactively counter these threats. In innumerable cases of action taken against journalists, media outlets or even global Internet providers, the intent of the perpetrators is to create a climate of fear that will lead to self-censorship. The shadow of that fear extends well beyond the specific acts of suppression or intimidation. Pushing back against specific threats is the first step towards addressing the general decline that Freedom House has documented in recent years.

The power of example cannot be under-stated. For the remaining six months of Kazakhstan's term as Chair-in-Office of the OSCE, it will be critically important for the United States and other OSCE members to continue urging Astana to implement more of the Madrid Commitments it undertook in 2007 in order to secure its chairmanship. This includes de-criminalizing libel, establishing reasonable caps for civil libel penalties, and generally making it easier, not harder, for journalists and media organizations to register. Some months ago, I asked a former Kazakh newspaper publisher what he thought about the Zhovtis case, and he responded, "Everyone has their own Zhovtis—(President) Nazarbayev has Zhovtis just like the akim of Uralsk has his own prisoner. In Central Asia, we follow the examples our leaders set for us."

In the wake of the Kyrgyz revolution two months ago, the speed and manner in which the provisional government returns media

holdings to independent, private hands will depend in large measure on the kind of encouragement it receives from its friends in the OSCE community.

The real drivers of change against the tide of increasing censorship, though, will be the media audiences in the countries themselves. According to tracking surveys conducted by the Levada Center in Moscow, the percentage of Russians considering freedom of expression to be important increased this April (42 percent) from June in 2008 (37 percent)—this may be a small change, but it is a change in the right direction. Media audiences will demand better-quality, more objective information if they are exposed to effective alternatives to state-controlled media—alternatives that are relevant to their daily concerns, compelling in the manner of presentation, and fair in the eyes of those who have long been inundated with official propaganda. That is why it is especially important not to cede too quickly to efforts by governments like Russia's and Azerbaijan's to block international broadcasting. It is equally important to apply ever higher standards of creativity to such content, and that means more focus and investment.

Opponents to media freedom are aggressive and focused in the pursuit of their agenda. Those who value media freedom must, therefore, be diligent and in even proactive in their efforts to engage audiences and seed the demand for a freer media. The Broadcasting Board of Governors supports quality projects, but its funding-levels for those OSCE areas most endangered by censorship have been at best flat-lined and, in more cases, cut. It is worth the effort to continually revisit how we communicate—as well as our methods in helping others do so in an unimpeded manner—and then make the necessary investments to ensure these programs are successful in reaching their intended audiences.

Indulging in moral relativism and circular arguments only benefits those who are actively working to limit free expression. In many respects, the most effective tool today against censors and tyrants is an open Internet. To keep the Internet and other lifelines of information and communication available to large parts of the OSCE space, it is critical to support voluntary, global standards set by both industry and NGOs. Governments, it must be agreed, have never regulated the media well.

As previously mentioned, censorship operates like a disease. When faced with terminal diseases of many different orders, democratic societies mobilize first to find a cure. Today we remain at that mobilization stage.

Thank you.

EXCERPTS FROM FREEDOM OF THE PRESS 2010: A GLOBAL SURVEY OF MEDIA INDEPENDENCE, ISSUED ON APRIL 29, 2010 BY FREEDOM HOUSE

Global press freedom declined in 2009, with setbacks registered in nearly every region of the world. This marked the eighth straight year of overall deterioration, and produced a global landscape in which only one in six people live in countries with a Free press. While there were some positive developments, particularly in

South Asia, significant declines were recorded in Latin America, sub-Saharan Africa, and the Middle East.

THE GLOBAL PICTURE IN 2009:

Of the 196 countries and territories assessed during calendar year 2009, 69 (35 percent) were rated Free, 64 (33 percent) were rated Partly Free, and 63 (32 percent) were rated Not Free.

The survey found that only 16 percent of the world's inhabitants live in countries with a Free press, while 44 percent have a Partly Free press and 40 percent live in Not Free environments.

TRENDS IN 2009

- Continued declines in important emerging democracies demonstrate the fragility of press freedom in such environments.
- Governments with an authoritarian bent have moved to consolidate control over traditional media while also encroaching on the comparatively free environment of the internet.

The space for independent media in Russia has been steadily reduced as legal protections are routinely ignored, the judicial system grows more subservient to the executive branch, reporters face severe repercussions for reporting on sensitive issues, most attacks on journalists go unpunished, and media ownership is brought firmly under the control of the state.

Russian authorities are also moving to restrict internet freedom through manipulation of online content and legal actions against bloggers

- A positive attitude on the part of governments or ruling parties has proven critical for gains in media freedom
- Threats to media freedom remain a concern even in stronger democracies.

While Israel regained its Free status in 2009, some curbs on media freedom, primarily concerning travel restrictions and military censorship, remain in place

In Italy, a country with a Partly Free ranking, conditions worsened as Prime Minister Silvio Berlusconi clashed with the press over coverage of his personal life, leading to lawsuits against both local and foreign news outlets as well as the censorship of critical content by the state-owned broadcaster.

KEY REASONS FOR DECLINE

- Most governments appear unwilling to reform or eliminate the array of laws used to punish journalists and news outlets, and some have been applying them with greater determination.

Libel and defamation laws are also commonly used to muzzle the independent media.

- In countries experiencing political upheaval and conflict, media are caught in the crossfire and become a prime target for threats and restrictions.

- Continuing impunity for past cases of murder and other crimes against journalists is encouraging new attacks, significantly hampering media freedom.

Countries with high murder rates among journalists are Mexico, Russia, the Philippines, Afghanistan, and Sri Lanka.

Apart from the direct impact on individual journalists, these attacks have a chilling effect on the profession as a whole, adding to the existing problem of self-censorship.

- Because they provide a relatively open forum for the exchange of information in otherwise restrictive environments, the internet and other new media have become sites of contestation between citizens attempting to provide and access news and governments attempting to maintain control.

Governments are employing traditional means of repression to restrict internet freedom, from lawsuits and direct censorship to content manipulation and the physical harassment of bloggers.

Authorities in some countries, such as Kazakhstan, have drafted new legislation specifically to extend state control over internet-based content, while others have simply applied existing, broadly written laws.

- The globalization of censorship represents a growing threat to freedoms of expression and the press.

Although there has been discussion of a legislative remedy to the practice, libel tourism remains a serious problem in Britain.

WORST OF THE WORST

- The world's 10 worst-rated countries are Belarus, Burma, Cuba, Equatorial Guinea, Eritrea, Iran, Libya, North Korea, Turkmenistan, and Uzbekistan.

- In these states, which are scattered around the globe, independent media are either nonexistent or barely able to operate, the press acts as a mouthpiece for the regime, citizens' access to unbiased information is severely limited, and dissent is crushed through imprisonment, torture, and other forms of repression.

CENTRAL AND EASTERN EUROPE/FORMER SOVIET UNION

- For the CEE/FSU region, 8 countries (28 percent) remained classified as Free, 11 (38 percent) were rated Partly Free, and 10 (34 percent) were rated Not Free.

- A majority of the people in this region (56 percent) live in Not Free media environments, while only 18 percent have access to Free media.

- In 2009, the regionwide average score showed a modest decline, with an improvement in the political category partly offsetting a drop in the economic category.

- Of the 196 countries and territories examined in the survey, 3 of the 10 worst press-freedom abusers—Belarus, Uzbekistan, and Turkmenistan—are found in the former Soviet Union. Other countries of particular concern include Azerbaijan, Kazakhstan, and Russia.

Russia continues to have an extremely challenging media environment, marked by the consistent inability of the pliant judiciary to protect journalists; increased self-censorship by journalists seeking to avoid harassment, closure of their media outlets, and even murder; and the frequent targeting of independent outlets by regulators.

- The state’s control or influence over almost all media outlets remains a serious concern, particularly as it affects the political landscape and Russians’ ability to make informed electoral choices.

Latvia’s score declined from 23 to 26 points to reflect a drop in advertising revenues as well as the nontransparent sale of a major newspaper.

Lithuania, affected by economic declines, dropped from 18 to 21 points. This was also driven by a December ban on information that promotes “sexual relations” in general, and nontraditional family structures in particular

Estonia, whose score declined from 15 to 17 due to adverse economic conditions that affected media sustainability and diversity

Hungary, score moved from 21 to 23 due to problems involving the allocation and registration of radio frequencies;

Croatia, score fell from 38 to 40 due to the removal of and legal action against journalists covering war crimes, organized crime, and corruption.

Bulgaria and Ukraine, scores increased primarily due to fewer cases of physical attacks and harassment, as well as greater editorial and ownership diversity.

Armenia and Moldova both saw numerical gains as a result of reduced censorship and restrictions on news coverage.

The score improvement for Serbia in 2009 reflected the fact that Kosovo was scored separately for the first time in this edition of the survey.

WESTERN EUROPE

- United Kingdom continues to be a concern primarily due to its expansive libel laws, which in the past several years have increasingly been used by both foreign and British litigants to stifle criticism from news outlets, book authors, and civil society groups within the country and abroad.

- Italy remained an outlier in the Partly Free category, registering a small score decline due to increased government attempts to interfere with editorial policy at state-run broadcast outlets.

- Turkey, the continued use of restrictive press laws—particularly Article 301 of the penal code—to intimidate journalists and writers, and the campaign of harassment against the Dogan media group, raised concern during the year.

PREPARED STATEMENT OF MUZAFFAR SULEYMANOV, RESEARCH ASSOCIATE, EUROPE AND CENTRAL ASIA PROGRAM, COMMITTEE TO PROTECT JOURNALISTS

Chairmen Cardin and Hastings, members of the commission:

Thank you for the opportunity to participate in this important hearing on the threats to press freedom in the OSCE region. My name is Muzaffar Suleymanov, I am the research associate for Europe and Central Asia at the Committee to Protect Journalists, an international, independently funded organization that defends press freedom worldwide. It is an honor to speak to you today.

I will focus my testimony on the threats to press freedom in several countries of the region, particularly in Kazakhstan, Uzbekistan, and Russia. Before I proceed with CPJ's concerns in these countries, I would like to commend the U.S. legislature for passing the Daniel Pearl Freedom of the Press Act in late April, and thank President Barack Obama for signing this important bill into law in May.

As President Obama duly noted at the signing ceremony, journalists and bloggers worldwide put their lives at risk to deliver the news every day. To honor that risk, world leaders must declare zero tolerance of media repression and urge their counterparts elsewhere to do the same. Such a signal is urgently needed in the OSCE region, where impunity in physical attacks against journalists and official obstruction of the press threaten the very existence of independent media. Although my testimony focuses on three countries, freedom of the press is threatened in many other OSCE member states.

I would like to start by briefly highlighting some of those threats.

REGIONAL HIGHLIGHTS

Investigative reporters in the Balkans, including in Serbia, Croatia, Kosovo, and Bulgaria, constantly face threats and endure violent attacks by nationalist and organized crime groups. In Azerbaijan, authorities continue to defy a binding European Court decision, which ordered the immediate release of imprisoned editor Eynulla Fatullayev. In Ukraine, a lack of political will has derailed the decade-long investigation into the 2000 murder of journalist Georgy Gongadze. In Kyrgyzstan, unchecked violence against journalists, including the 2007 murder of Editor Alisher Saipov, has forced independent reporters to either leave or practice self-censorship. In Belarus, police officers and security agents continue to harass independent journalists, and a recently adopted Internet law threatens the last remaining platform for President Lukashenko's critics.

Now I am going to focus on the press freedom records of three regional countries of concern for CPJ. I will start with the current OSCE chair, Kazakhstan, then talk about Uzbekistan, and finish with Russia.

KAZAKHSTAN

The current OSCE chair is not living up to the standard that should be set by the leader of the main regional human rights monitor. Impunity in attacks against independent journalists, politi-

cally motivated prosecutions and imprisonments of government critics, and a restrictive Internet law are the main issues that taint the country's record.

One journalist was killed with impunity and at least four became the victims of violence in Kazakhstan in the past 18 months. Kazakhstan has reported no progress in solving these attacks, most notably, in the December 2009 killing of Kyrgyz reporter Gennady Pavlyuk in Almaty.

Pavlyuk had reportedly traveled to Kazakhstan to raise funds for starting an online publication when he was found unconscious, sprawled on the overhang of an apartment building's entrance. He had apparently fallen from a window above, yet Pavlyuk's hands and legs were bound with tape. He died in a hospital six days later, without ever regaining consciousness.

Soon after the incident, Kazakh authorities said they had traced suspects in the murder to neighboring Kyrgyzstan. But for months, authorities have not reported what, if anything, they had been doing to advance the investigation.

Imprisonment on fabricated charges is another form of censorship that authorities use against their critics. Kazakhstan continues to hold independent editor Ramazan Yesergepov and media rights activist Yevgeny Zhovtis. Authorities took Yesergepov from a hospital bed in Almaty in January 2009 after he had reported on corruption in the security services. Seven months later, in the absence of a lawyer, family, and the press, Yesergepov was sentenced to three years in prison for "collecting state secrets." Despite domestic and international protests, Kazakhstan's courts have denied every appeal of this harsh sentence. Meanwhile, Yesergepov is left without legal counsel after a lawyer who initially defended him suddenly quit the case in June 2009 and left Kazakhstan.

My colleague, CPJ Europe and Central Asia Program Coordinator Nina Ognianova, travelled to Kazakhstan on a fact-finding mission last week, and tried to visit Yesergepov in prison in the regional city of Taraz. Authorities behaved rather bizarrely—they first granted her permission to meet with the imprisoned; then, an hour later, declared that she had been denied access. Her attempts to receive an explanation for the sudden change of heart have so far been unsuccessful. Though Ognianova was standing at their doorstep, officials at the Justice Ministry in Taraz even refused to deliver the denial of access personally to her; instead, they chose to act through a proxy.

Prominent human rights and press freedom defender Yevgeny Zhovtis provided expert analysis on Kazakhstan to international institutions, including this commission, for years. Most recently before he was jailed, Zhovtis had publicly criticized a then-pending government-sponsored bill that expanded restrictions on Internet expression, and required Internet providers to collect client information for authorities. President Nursultan Nazarbayev signed the bill into law in July 2009.

The same month, Zhovtis was driving to Almaty with friends when, blinded by the lights of an approaching car, he struck a young man in the middle of the road. Zhovtis immediately reported the accident to authorities, witnesses testified about extenuating circumstances, and the victim's family said publicly that the man-

slaughter charge was not justified. Nevertheless, two months later, Zhovtis was sentenced to four years in a penal colony in connection with the fatal accident.

Local press freedom advocates who attended the proceedings told CPJ that the presiding judge appeared to have composed the verdict beforehand, leaving the impression that the case was predetermined. The written verdict was altered to reconcile conflicting details. The defense's appeals have been denied.

Other threats to press freedom in Kazakhstan include using criminal and civil defamation laws to retaliate against critics; maintaining a tight control on the influential broadcast media; and passing restrictive new bills to gag recalcitrant independent outlets. Insult of the president or his family through the media, for instance, carries a prison term of up to five years. In one outrageous case, in February, an Almaty court issued a gag order against all media after several independent newspapers carried an open letter accusing President Nazarbayev's son-in-law of corruption.

Authorities also use civil defamation lawsuits carrying exorbitant fines as a successful tool to bring critical publications to their knees. In the last two years, government officials and state agencies filed more than 60 defamation lawsuits against independent newspapers and their staffers, seeking more than half a billion Kazakh tenge (US\$3.5 million) in damages. (In comparison, the average monthly income is 66,000 Kazakh tenge (about US\$450). CPJ research has shown that local courts often side with the plaintiffs.)

Free expression on the Internet is under attack in Kazakhstan as well. Despite an international outcry, in 2009 President Nazarbayev signed restrictive Internet and privacy laws. A new Internet law equates all Web-based platforms—including social networking sites, personal blogs and chat rooms—with traditional media, thus making them subject to the same severe restrictions. The law gives state agencies the broad authority to block Web sites—including international ones—that officials deem in violation of Kazakh legislation. The broadly worded privacy law restricts reporting on government officials and carries harsh penalties for violators, including closures of media outlets and a five-year-long imprisonment for individual journalists. Recently, the government announced the creation of an agency to monitor “destructive Web sites” and counter “political extremism.” Authorities have failed to explain how they would define and measure those terms.

UZBEKISTAN

Another OSCE country of great concern for CPJ is Uzbekistan. It is the leading jailer of journalists in Europe and Central Asia with at least seven reporters behind bars. Among those in custody is President Islam Karimov's own nephew, journalist Dzhamshid Karimov, who has been held in a psychiatric hospital for four years as retaliation for his critical reporting on his uncle's policies. Dzhamshid Karimov did not even hear a court verdict. In September 2006, security agents kidnapped him from the street in his native city of Jizzakh and threw him in a clinic in a neighboring region. He has been held incommunicado since. No lawyer dares represent him, local sources told CPJ, as no one dares dispute what is commonly viewed as a presidential order.

Press freedom groups, including CPJ, have repeatedly called on President Karimov to ease his regime's grip on the media by releasing imprisoned journalists, unblocking access to independent news Web sites, allowing international broadcasters to work in Uzbekistan, and ensuring that the security services stop harassing reporters. But the Uzbek government seems to have developed immunity to such calls and campaigns. CPJ urges the U.S. government to work in cooperation with European Union leaders to press President Karimov on his state's appalling press freedom record, and to condition diplomatic relations with Uzbekistan on the immediate release of our colleagues.

RUSSIA

Murder is the ultimate form of censorship, and impunity in journalist killings is the main threat to press freedom in the OSCE region.

In Russia in particular, impunity has regrettably become the norm, to the plight of the independent press corps whose ranks are dwindling. Nineteen journalists have been murdered for their work in Russia in the past decade. Only in one case have the immediate killers been convicted, and even there those who ordered the crime remain at large.

Although in the past two years President Dmitry Medvedev publicly promised that his government will ensure that crimes against the press will be solved, the brutal reality has not changed. At least three journalists were killed in Russia for their work last year alone, with no progress reported in bringing their murderers to justice.

No other case demonstrates the sharp disconnect between President Medvedev's pledges and his subordinates' actions than that of 37-year-old publisher Magomed Yevloyev.

Through his Web site, Ingushetiya.ru, Yevloyev exposed high-level government corruption, disappearances and killings of civilians in the volatile Republic of Ingushetia, and called on the regional leader to resign. Authorities did not wait long to retaliate. On August 31, 2008, guards of then-Ingushetia Interior Minister Musa Medov arrested the journalist without a warrant shortly after his flight landed at an Ingushetia airport. The agents placed him in a government vehicle and shot him dead on the way to the region's largest city, Nazran.

Rather than launching a thorough investigation into the incident, both local and federal authorities swiftly sided with the shooter's account, declaring Yevloyev's killing inadvertent. Investigators announced that the publisher was killed accidentally when he tried to snatch a gun from one of his three arresting officers. But a CPJ investigation into the case shows a number of inconsistencies in the shooter's account as well as in the overall official version of events. (For those interested in our investigation, please refer to our special report *Anatomy of Injustice*, downloadable on our Web site, www.cpj.org.)

Currently, not a single person is held accountable for the murder. The shooter—a high-ranking security officer, a nephew of Minister Medov, and the sole defendant in the case—never attended his own trial. The proceedings ended in December with a negligent

homicide verdict that carried a two-year term in a low-security prison.

But even that conviction did not stand. To the outrage of Yevloyev's family and colleagues, in March, Ingushetia's Supreme Court released the killer by replacing his prison term with a two-year-long "restriction of freedom" sentence. Under this new legal provision, which had come into force in January, Yevloyev's killer was placed under curfew and barred from attending mass gatherings.

CPJ calls on this commission to raise Yevloyev's case with high-ranking officials in the Obama administration. And we urge those officials to bring up the case in bilateral meetings with their Russian counterparts. A new, independent probe is sorely needed in Yevloyev's killing.

Mr. Chairman, CPJ commends this commission on holding this important hearing, and we urge you to make such hearings a regular practice. We recommend the commission share today's testimony with President Barack Obama and members of the executive branch, and urge them to actively engage with their regional counterparts on the pressing issues discussed today.

**MATERIAL SUBMITTED FOR THE RECORD BY REPORTERS
WITHOUT BORDERS**

TURKMENISTAN

Domain name: .tm

Population: 5 342 342

Internet-users: 127 000

Average charge for one hour's connection at a cybercafé: 0,8 to 1,4 US\$

Average monthly salary: around 205 US\$

Number of imprisoned netizens : 0

President Berdymukhamedov has partially broken the diplomatic isolation maintained by his predecessor, the tyrant Niyazov. But the relative economic openness has not translated into more Internet or social freedoms. Scarcely 1% of the population has access to the Web. Information is still oppressively controlled in this post-Stalinian dictatorship.

TENTATIVE IMPROVEMENTS

Individual Web connections have only been authorized since 2008. Permission for Internet access was first granted to businesses, then gradually extended to their employees, and finally to the country's citizens. Pyramid Research, a telecommunications research organization, estimates the number of individual subscriptions as of the end of 2009 at 13,200 and the number of users at 127,000. The American Information Center, French Cultural Center, and International Turkmen Turk University, as well as some Turkmen private schools, are proposing access to the international network.

Connection speed is not as slow as it used to be: it now takes only a few minutes to open an e-mail, as opposed to at least a half-hour in 2008. Sending or receiving a photo takes longer, and a video takes 30 minutes.

Given this situation, very few Turkmen have acquired an Internet connection in their homes. The cost is prohibitive: a monthly subscription costs USD 5, and an additional USD 0.50 per hour. The average salary is less than USD 200 per month.

The incumbent president has kept his promise to allow cyber cafes to open. However, users are required to show an ID and to pay the considerable sum of USD 1 to 2 per hour. Some 15 of them are currently operating in the capital Ashgabat, as well as in other large cities such as Dashoguz. Uniformed policemen are no longer being posted at cyber café entrances to intimidate customers, but the secret service still raids them on occasion. In one raid in 2008, an Internet user accused of consulting prohibited websites was arrested.

THE "TURKMENET"

Apart from a few businesses and foreign embassies that can access the Worldwide Web, the few other Internet users can only access an ultra-censored version of the Internet nicknamed "the Turkmenet," unless they know how to use censorship circumvention tools.

A very strict filtering is now focused on critical publications likely to initially target local users and potential dissidents, mainly for linguistic reasons. Opposition websites such as XpoHo.tm and Gundogar, and regional news sites covering Central Asia, such as ferghana.ru or eurasianet, are blocked. YouTube and LiveJournal were rendered inaccessible at the end of 2009 to prevent Turkmen from blogging or sending videos abroad. Facebook, which is not used very extensively in the country, is not blocked—at least not for the moment.

However, Turkmen can visit most generalist NGO Websites. The same scenario applies to Russian and Turkmen media sites that contain no articles critical of the country, notably because of the significant commercial ties between Turkmenistan on one hand, and Russia and Turkey on the other. The government is keeping a close watch on its netizens' activities. Officials prefer to monitor the surfers' e-mail accounts (mail.ru, hotmail, etc.), rather than block them, so that they can identify potential dissidents.

WESTERN BUSINESSES: VECTORS OF CHANGE?

The Russian telecommunications company MTS holds an 80% share of the mobile telephone market, which is an increasingly lucrative sector. MTS is now also offering Internet access via GPRS, which may facilitate access for the general population. The terms of use specify that the Internet is filtered.

Improving telecommunications infrastructures is not an absolute priority for authorities at the moment, when close to 25% of the population are still living below the poverty level. The international community cannot be counted upon to further the cause of freedom of expression in a country which seems to be an Eldorado for Western businesses enticed by Turkmen gas fields. However, the country's economic openness could have a positive impact on the Internet penetration rate within the population, as long as the latter does not try to explore subjects deemed too sensitive, or develop any form of civil society. Foreign companies could become vectors of change by calling for a generalization of modern means of communication suitable for commercial and entrepreneurial activities.

Links: <http://www.rferl.org/featuresarchive/country/turkmenistan.html>: Turkmen service of Radio Free Europe (English)

<http://www.eurasianet.org>: news website on central Asia (English and Russian)

<http://turkmenistan.neweurasia.net/>: collaborative website on Turkmenistan. Neweurasia is an aggregator of central Asia blogs

<http://www.untuk.org>: UN website on Turkmenistan, launched on 8 February 2008.

<http://www.chrono-tm.org>: website created by the human rights organisation "Turkmen initiative for human rights".

UZBEKISTAN

Domain name : .uz

Population : 26 606 007

Internet users : 7 740 000

Average price of an hour's connection in a cybercafé : around 0,19 US\$

Average monthly salary : around 68 US\$

Number of imprisoned netizens : 0

In this country deprived of independent media outlets, the authorities impose a very strict Internet censorship, while refusing to admit it publicly. Website filtering, sanctions and intimidations are used against potential critics of the regime. Netizens have learned to practice self-censorship.

MASSIVE CENSORSHIP OF POLITICALLY ORIENTED CONTENT

The government intensified its crackdown on the Internet, particularly after the 2005 Andijan massacre, in order to impose only its version of the facts on the Uzbekistan population. At that time, access to nearly all Internet websites had been blocked. Authorities are now attempting to prevent the opposition based both inside and outside of Uzbekistan from connecting with the Uzbek society via the Internet and the new media, which are becoming increasingly popular in the country. The number of Internet users rose from 2.4 to 7.74 million from 2008 to 2009, according to the authorities.

The lengthy list of "sensitive" subjects includes corruption of government officials, criticism of the regime, and the deplorable status of human rights. Among the blocked sites are those of the online news agency www.Ferghana.ru, and *Nezavisimaya Gazeta* (www.ng.ru). The regional news website www.CentrAsia.ru is partially blocked, but most of its pages can be viewed. If surfers attempt to gain access to prohibited articles, they are redirected to the home page. The website of the Central Asian News Service, www.ca-news.org, is also partially blocked. The BBC's Uzbek-language broadcasts are constantly blocked, while the Russian version is only periodically blocked. Social networks such as Livejournal, MySpace, Facebook, Twitter, Blogger, Flickr and Uzbekistan's most popular blog platform, www.Kloop.kg, are sporadically inaccessible. The websites of Russian TV networks Russia 1 and Vesti 24 were blocked after they broadcast news that Uzbek photographer Oumida Akhmedova, accused of "insulting" and "slandering" the Uzbek people, had been granted an amnesty. The artist's works had addressed poverty and women's rights.

Most Internet service providers gain World Wide Web access through the National Information Transmission Network (UzPAK) operator. Filtering is enforced at this level. But one of the state-owned service providers, Tashkent City Telephone Network (www.tshtt.uz) independently blocks websites not rendered inaccessible by UzPAK. Every service provider must obtain a license from the Ministry of Communications and Information.

The Internet version that the population can access once the "harmful" websites are made unavailable is called "UzNet."

According to the online news agency www.Ferghana.ru, the regime launched a campaign through the state-controlled media to justify Internet censorship to the general public. The deputy editor-in-chief of *Halk Suzi*, one of the country's three biggest dailies, allegedly supported the muzzling of websites relaying "unacceptable criticism," and suggested setting up a system equivalent to an "Electronic Great Wall of China."

A LIBERTICIDAL LEGISLATIVE APPARATUS THAT SCOFFS AT THE CONSTITUTION

While the Constitution guarantees free access to information, this principle is ridiculed on a daily basis, mainly because it is rendered ineffective by the adoption of many other pieces of legislation.

The 2002 Law on the Principles and Guarantees of Freedom of Information authorizes the government to use restrictions when it deems it necessary to protect anyone against “the psychological impact of negative information.” Decree no. 216 of 2004 prohibits ISPs and operators from disseminating certain types of information. The national operator UzbekTelecom broadly interprets targeted content. The 2007 Media Law, which also applies to online media, renders editors and journalists liable for the “objectivity” of their publications.

The Uzbek National Security Service (NSS) is responsible for Internet surveillance and for ensuring that these rules are being enforced by ISPs and cybercafés.

NETIZENS UNDER SURVEILLANCE

The one thousand cybercafés that operate in the country are unevenly monitored. The use of spyware is widespread. Tests carried out by Reporters Without Borders have shown that certain café managers resisted installing anti-spyware software on one of their computers, while in other cybercafés, this tampering went almost unnoticed. Various censorship circumvention tools may have been used in certain cafés, but not in others. Several OpenNet Initiative researchers were therefore questioned in 2007, while they were testing website filtering systems.

Emails are also under surveillance, as are chat rooms, particularly those of ICQ and Mail.ru Agent. Several people are thought to have been arrested in January 2010 for their alleged membership in extremist religious organizations, after being spotted from their conversations on Mail.ru Agent.

HARASSMENTS AND INTIMIDATIONS

Netizens wishing to express themselves freely online are risking a great deal. One high-profile case is that of online journalist Djamshid Karimov, the President’s nephew, widely known for having denounced corruption among the Jizzak region’s authorities, and who was forcibly confined in a psychiatric hospital in 2006. The rare independent journalists who have remained in the country are constantly harassed by authorities and summoned to the police station. Ten of them are behind bars. Among them is Solijon Abdurakhmanov, who was sentenced in 2008 to serve a ten-year prison sentence for “drug possession with the intent to sell,” in a totally fabricated case.

HYPOCRITICAL AUTHORITIES ENCOURAGED BY A NON-REACTIVE INTERNATIONAL COMMUNITY

Despite this incriminating record, Uzbek authorities deny the scope of the censorship, which they justify by claiming it is necessary to protect national security, and they are even trying to

make it seem reasonable to the international community. The government is displaying boundless hypocrisy in attempting to make people believe that the country is opening up to some degree. In a February 2010 speech, President Islam Karimov blamed the media for not being aggressive enough. He stated: "It is necessary to create additional conditions for better coverage of both foreign and domestic policy by [the] mass media". His sole aim is to please investors. Karimov has no intention of stopping the censorship.

At any rate, the country's strategy seems to be working. Attracted by Uzbekistan's energy resources, the European Union has agreed to take a reconciliatory approach with Uzbekistan and voted in 2008, and again in 2009, to lift the sanctions that had been imposed following the Andijan massacre.

Links : <http://uzbekistan.neweurasia.net> : collaborative website on Uzbekistan. The website Neweurasia is a platform for central Asian blogs (English, Russian, Uzbek, Kazakh, Tajik, and Kirghiz).

<http://ferghana.ru> : independent news agency for countries of central Asia (Russian and English).

<http://www.centrasia.ru> : news website on central Asia (Russian).

<http://www.eurasianet.org> : news website Eurasianet.

http://www.rferl.org/featuresarchiv..._ekistan.html : Uzbek service of Radio Free Europe/ Radio Liberty.

<http://eng.bir.uz/news> : National news agency (Russian, Uzbek, English).

BELARUS

The government is planning to arm itself with every possible weapon to ensure tight control of the Internet through the latest legal provisions. After locking down the traditional media, the regime is ramping up its Internet offensive to intimidate members of the civil society who have found refuge within its portals.

A NEW LIBERTICIDAL DECREE

On February 1, 2010, President Lukashenko signed a Presidential Decree on "Measures to Improve the Use of the National Segment of the Internet Network," which provides for a strong censorship overseen by the presidency. The decree requires that Internet service providers (ISPs) identify and register all Internet access media (computers, telephones, etc.). Cyber café customers will need to identify themselves, and each connection will be recorded and maintained for one year. The same rule applies to shared connection users (i.e., co-owners). Finally, the Decree provides for the creation of an "Analysis Center" that will report to the presidency and be responsible for content surveillance prior to any dissemination over the Internet. This Center will assign domain names and be empowered to order ISPs to close a website. The latter will then have 24 hours to comply. Sites can also be shut down at an ordinary citizen's request, thereby introducing a form of online denunciation. The thirty-odd existing ISPs must use the bandwidth provided by Belpak, an affiliate of Beltelekom that occupies a monopoly position, thus facilitating control and surveillance.

MORE-THAN-DUBIOUS INTENTIONS DENOUNCED BY THE
INTERNATIONAL COMMUNITY

The President of Belarus tries to appear reassuring: every individual will be free to do whatever he wants on the Internet: The purpose of the Decree is to “protect the rights of Belarussian citizens, the society and the state in the field of information,” to defend morality and intellectual property, and to encourage further growth of the Internet for economic purposes. Only it is difficult to believe someone who, several months ago, had announced his intention to “eliminate anarchy on the Internet” while referring to the Chinese model. No one has been duped: his real aim is to prevent the opposition from expressing their views on the Internet just before the 2011 presidential elections. The Decree is slated to enter into force in July 2010.

The European Union has chosen to take a tougher stand toward the “last European dictatorship” by qualifying this Decree as “a step in the wrong direction.” The EU and the OSCE are currently reviewing the text to determine whether or not it is compatible with the commitments that Belarus has made with those two bodies.

A VIBRANT ONLINE CIVIL SOCIETY, DESPITE THE CRACKDOWN

Nearly three million Belarussians actively surf the Web. Dissidents, independent journalists and the civil society as a whole have found the Internet to be a space for discussion and exchanges of opinion that no longer exists in the traditional media. Dozens of cyber cafés in the capital, Minsk, as well as in the rest of the country, are their main access points. Since a decree issued in 2007, they have been subject to a form of surveillance by the authorities.

Belarussian netizens have already paid the price of repression. Andrei Klimau, the first opposition activist to be prosecuted after posting an article on the Internet, was given a two-year prison term in August 2007 for “inciting the overthrow of the regime.” He was released in February 2008. Cyber attacks against independent sites like Charter 97—the country’s most frequently visited opposition website—or the Radio Free Europe / Radio Liberty website, are common, as are threats against their journalists, or blockings during major political events and demonstrations. The new Press Law of August 2008 established control over online publications.

The Belarus online community mobilizes quickly, and its activism is echoed within the society. In protest against the elimination of free public transport for the elderly, indignant Internet users and bloggers asked their fellow countrymen to hand out bus tokens to senior citizens. Several hundred people pitched in, and the initiative was filmed and posted on the Internet—an unmistakable way of defying the authorities, similar to what happened on “Democracy Day,” when citizens blackened one side of the token to affirm their allegiance to democracy.

RUSSIA

After the takeover by the Kremlin of the audiovisual media early in the Putin era, the Internet became the freest space for discussion and information-sharing in Russia. Yet its dependence is

threatened by blogger arrests and prosecutions, and the blocking of independent websites labeled as “extremist.” The Web has also become a first-rate sphere of activity for government propaganda and could become a political control mechanism.

Web access has spread extensively in the last few years, and with government support. The project to create a Russian Silicon Valley was launched by President Dimitri Medvedev’s decree of December 31, 2009. This plan unveils the country’s technological ambitions.

The Internet is regulated by the Federal Service for Communications Supervision, whose Director is appointed by the Prime Minister. The government secured the means to carry out Web surveillance from the very start. In 2000, all Internet service providers were required to install “Sorm-2” software, “SORM” being the Russian acronym for “System for Operative Investigative Activities.” It enables the police and Federal Security Service (FSB) to have access to user surfing activity and email traffic. A 2007 law authorized the government to intercept Web data without a prior court order. Social networks such as Vkontakte and the blog platform Livejournal were bought out by oligarchs with close ties to the regime.

“TROUBLING” WEBSITES BLOCKED, PROSECUTED OR HACKED

The Internet is not subject to an automatic filtering system, but independent sites and those with close ties to the opposition have been rendered inaccessible in the last few months. In 2008, the www.Kompromat.ru website was blocked by several Internet service providers prior to the presidential elections, and later unblocked. In December 2009, Garry Kasparov’s websites (www.Kasparov.ru and www.Rusolidarnost.ru) and www.Nazbol.ru, the National Bolshevik Party’s website, were blocked for Yota service provider users. Yota denied the allegations, citing technical problems, and the websites were finally unblocked. The management of the Skartel operator, which owns Yota, admitted that this company blocks websites that the Ministry of Justice classifies as “extremist.” The list of “extremist” content, issued by the Attorney General, includes nearly 500 terms and is constantly being updated under the watchful eye of the “e-Centers” responsible for eliminating extremism. Article 282 of the Russian Criminal Code defines “extremism” as “xenophobia and incitement to hatred by means of a social group.” These are the justifications given for shutting down the www.ingushetiya.ru website, the only news portal in the Ingush language. The website www.ingushetiyaru.org was then created. In the same context, in February 2010, Russian police opened an investigation into the www.Grani.ru portal, a platform for independent journalists and human rights activists. The same treatment was reserved for www.kompromat.ru and The Moscow Post website, which had reported a violent dispute between intoxicated senior police officials.

Often a call from authorities is all it takes to obtain permission to delete content, or to block a website. Aleksandr Ovchinnikov, Director of the Web hosting company Masterhost, admitted that this practice exists.

Cyber-attacks are commonplace. In January 2010, the www.ingushetiyaru.org website was hacked just after it posted the last interview granted by Natalia Estemirova, the human rights activist murdered in July 2009. The same thing happened to the website of the Chechen magazine *Dosh*, just a few days after it was awarded the Reporters Without Borders Press Freedom Prize in December 2009. As for the *Novaya Gazeta* newspaper's website, it was rendered inaccessible for more than a week at the end of January following a "highly organized and powerful" cyber-attack."

PROPAGANDA AND INTIMIDATIONS

Vladimir Putin stated in January 2010 that "50% of Internet content is pornographic. Why, then, should we bother?" He denied Internet-relayed accusations that the October 2010 regional election results were falsified. Nonetheless, the government is omnipresent on the Web, and makes optimal use of the terrain. One of the star bloggers of RuNet—the Russian version of the Internet—is none other than President Dmitri Medvedev. In March 2008, local Ingush authorities created an Internet site with an address almost identical to that of the news site www.ingushetiyaru.org in order to present a different version of the news that it was delivering.

Government supporters are quick to react to criticisms posted online, "drowning" the latter in a sea of positive comments. The most virulent among them formed a group called the "Brigade," of which some of them are paid members. They notably infiltrate discussion forums and sometimes discuss matters very harshly, not even hesitating to use insults and threats. In June 2009, economist Evgeni Gontmakher disclosed in *The Moscow Times* that he had been the target of "massive attacks" by bloggers paid by the government, after he criticized Vladislav Surkov, the First Deputy Chief of the Presidential Staff. In his opinion, "The modern Russian propaganda machine permeates nearly every major media outlet and even extends to the blogosphere."

BLOGGERS INCREASINGLY PERSECUTED

In July 2008, blogger Savva Terentyev was charged with "belittling the human dignity of a social group" (in this instance, the police) and given a one-year probation. Irek Murtazin got a 21-month prison term for "defamation and incitement to hatred" for having posted a message implying that Mintimer Shaimiev, who was Tatarstan's chief executive at the time, had died. The case was appealed to the Russian Supreme Court.

Blogger Dimitri Soloviev was investigated for having "inciting hatred against the police and the FSB." Charges were dropped in January 2010 after two years of legal proceedings. On September 1, 2009, the Ministry of the Interior of the Republic of Khakassia (in southwest Siberia) dropped the charges against Mikhail Afanasyev, editor of the *Novy Focus* website, who was accused of spreading "false rumors." He had published news about the fatal explosion of a turbine at the Sayano-Shushenskaya power plant, which led to the death of 73 employees, and relayed criticisms of the manner in which the authorities had handled this tragedy.

In December 2009, blogger Ivan Peregorodiev was arrested and indicted for “disseminating false information related to an act of terrorism” because he had discussed rumors on his blog, according to which victims of the A (H1N1) virus had actually died of the plague. Blogger Dmitri Kirilin, on the other hand, was charged with calling for “the overthrow of the existing political order, and making disrespectful comments about incumbent officials, notably Prime Minister Vladimir Putin.

Aleksey Dymovsky, a police officer who denounced police corruption in a video message distributed over the Internet, became the subject of a criminal investigation in December 2009 for “abuse of power and fraud,” according to the public prosecutor’s office. He faces up to six years in prison.

Vadim Charushev—The creator of Vkontakte, one of the country’s most popular social networks—was confined against his will in a psychiatric hospital in March 2009.

ONLINE JOURNALIST KILLED

Magomed Yevloyev, one of the creators and the owner of the Ingush news website, <http://ingushetiyaru.org>, was killed in August 2008 while detained by the Ministry of the Interior’s security agents. The journalist had been arrested at the Nazran airport shortly after landing there. The airplane he had flown was also carrying the then-President of the Republic of Ingushetia, Murat Zyazikov. A few hours later, Magomed Yevloyev, who had been shot in the head, was admitted to the hospital where he later died on the operating table. This murder remains unpunished.

A DYNAMIC BLOGOSPHERE

In November 2009, bloggers Oleg Kozyrev and Viktor Korb launched a “bloggers’ union” to protect netizens’ rights and freedoms. They have also conducted campaigns on behalf of imprisoned or prosecuted bloggers.

Sometimes the Internet can fill the void left by traditional media outlets. In 2008, a report on the demolition of historic Moscow buildings whose residents were displaced to make room for new offices and business centers was partially censored by the authorities, and confidentially broadcast on the NTV channel. The video, on the other hand, was posted on RuTube (a YouTube clone), where it became a huge success, receiving over 200,000 hits in just a few days.

The Internet is also a space for political mobilization. Roman Dobrokhotov, leader of the young Russian democrats movement “My” (“We”), an opposition party, stated that all of his activities are performed over the Internet via a Google group. It is easier to mobilize people online than it is in the street.

The Internet has become a space in which people can denounce the corruption of Russian officials. Marina Litvinovitch, one of the leaders of the Civic United Front (CUF), an opposition party, posted on her blog an article objecting to the impunity enjoyed by a civil servant’s daughter in the Irkutsk region. She had caused a fatal car accident in December 2009, but had been treated as if she were only a witness in the case. Marina Litvinovitch launched an appeal to other bloggers, asking them to distribute that informa-

tion by creating a link to her article or by reposting it, which many Internet users agreed to do. This initiative had the merit of making the public aware of this tragedy, and the blogger believes that the courts will no longer be able to avoid taking this matter seriously.

For the moment, the impact of these online mobilizations, blogs and new media on Russian society is still relatively limited. The authorities' attitude in the months to come will determine if the acts of censorship or intimidation and arrests are, or are not, indicative of a deliberate attempt to gain complete control of the new media. The introduction of Internet censorship in Russia would be that much more harmful in that it would spread throughout the region, with negative consequences on the right to inform and be informed in the Caucasus as well as in Central Asia, where censored netizens sometimes have access to the Russian Internet.

TURKEY

Ataturk, the Army, the issue of minorities (Kurds, Armenians, etc.) and the Nation's dignity are all taboo subjects in Turkey. Several thousand websites are blocked, including the well-known YouTube, raising protests within the country. Bloggers and surfers who express their views freely on such topics are running the risk of reprisals.

THOUSANDS OF BLOCKED WEBSITES

Currently, some 3,700 sites are allegedly blocked in Turkey, some for "arbitrary and political reasons," according to the Organization for Security and Cooperation in Europe (OSCE) (www.osce.org). Among them are many foreign websites, news sites about the Kurd minority, and EU gay websites, thereby muzzling any opportunity for debate.

The most widely publicized example of online censorship is undoubtedly the blocking of YouTube, which has once again been rendered inaccessible since May 2008 because of the dissemination of videos considered disrespectful toward the Founder of the Republic and the Turkish nation, despite the fact that YouTube had withdrawn some of these videos. From March 2007 to June 2008, several courts had issued seventeen orders to block the website. A related lawsuit on this matter was lodged with the European Court of Human Rights (ECHR) by the Society for Internet Technology (INETD), based in Ankara, for violating freedom of expression. In September 2008, MySpace.com was also blocked for "violating intellectual property rights," then unblocked in October 2009.

A LEGISLATION-BACKED CENSORSHIP?

Law 5651 on the Internet permits this mass blocking. The OSCE thus urged Turkey to implement reforms to demonstrate its commitment to freedom of expression. Article 8 of this Law authorizes blocking the access to certain websites if there is even a "adequate suspicion" that any of the following eight offenses are being committed: encouraging suicide; sexual exploitation or abuse of children; facilitating the use of narcotics; supply of unhealthy substances; obscenity; online betting, or anti-Ataturk crimes. It is this latter provision that creates problems. Websites hosted in Turkey

are often shut down, and those hosted abroad are filtered and blocked by Internet service providers. Denunciations are encouraged: there is a hotline for reporting prohibited online content and illegal activities. Over 80,000 calls were recorded in May 2009, as opposed to 25,000 in October 2008.

Site-blocking is carried out by court order or by administrative order of the Supreme Council for Telecommunications and IT. Such administrative decision is arbitrary and precludes the possibility of a fair trial. This entity, which was created in 2005 in the aim of centralizing surveillance and the interception of communications (including on the Internet), has not issued its blacklist of blocked websites since May 2009—indicating a troubling lack of transparency.

According to the OSCE, over 80% of the blockings tallied in May 2009 were the result of administrative orders. The majority of them were made on the grounds of “obscenity” and the “sexual exploitation of children.” However, in addition to these site blockings, 158 examples of “illegal” Atatürk-related content have allegedly been removed at the request of the Telecommunications Presidency. By virtue of Article 9 of this text, individuals who feel that their rights have been violated may request that the site or its host remove the incriminated content.

Most importantly, nearly 200 court decisions were recorded in 2009 ordering website blockings related to matters beyond the scope of Law 5651, therefore making the blockings unjustified. For example, the independent news site www.istanbul.indymedia.org was suspended for “insulting Turkish identity”—a crime that falls within the jurisdiction of the Turkish Penal Code (TPC) and not Law 5651. Other counts of indictment used were “dissemination of terrorist propaganda” (by virtue of the Anti-Terrorist Law), and “incitement to hatred” by virtue of Article 216 of the Turkish Penal Code. Some websites were also rendered inaccessible as the result of libel suits.

Moreover, Turkish law does not oblige the authorities to inform those charged of the rulings rendered, and the sites often find out for themselves that they are blocked. Rather than to legally contest the blocking decisions, which has rarely occurred, some sites change their domain names to circumvent the censorship. For example, the website of the daily *Gündem* has been blocked since March 2008, but their new site, www.gundem-online.net, remains accessible.

Most importantly, censorship can be circumvented via proxy servers or VPNs, and blocked websites are often accessible on Blackberrys and iPhones.

NETIZENS “HARASSED” FOR EXPRESSING THEIR OPINIONS

Prison terms were pronounced in absentia on March 2, 2010 against three online journalists from Adiyaman Province (in southeastern Turkey). Journalist Hacı Bogatekin, chief editor of the www.gergerfirat.net news site, was sentenced to five years in prison, and denied his civil rights for insulting and defaming Sadullah Ovacikli, a local prosecutor. His son, Üzgür Bogatekin, owner of the online news site, www.gergerfirat.net, received a one year and two-month prison term on the grounds that he intervened when two po-

licemen were assaulting someone in the street. Cumali Badur, an editor of the same news site, www.gergerim.com, was fined EUR 1500 (about USD 2,050). A column posted on the latter website in January 2008 had mentioned that Prosecutor Ovacikli had ties with Fethullah Gülen, a religious community leader. The three journalists have appealed their cases and are not currently behind bars.

Baris Yarkadas, an online journalist working for the newspaper *Gerçek Gündem* (“Real Agenda”) may be facing a prison term of 5 years and 4 months by virtue of Article 299, paragraph 2, of the Turkish Penal Code. His trial, which began on March 3, 2010, will reconvene on June 9. The Presidential administration has charged him with “insulting the President of the Republic,” and with not withdrawing from his newspaper’s website a critical article posted by an Internet user. The journalist is facing multiple lawsuits. On June 21, 2010, he must also appear before the same court, this time on charges brought by Dr. Nur Birgen, Chair of the Institute for Forensic Medicine’s Third Specialization Board, who accused him of “personally insulting” her by reporting in an article allegations that human rights NGOs had made against her.

After ten months of detention pending trial, Aylin Duruoglu, Editor of the *Vatan* website (www.gazetevatan.com) and Mehmet Yesiltepe, an employee working for the magazine *Devrimci Hareket* (“revolutionary movement”) were granted a conditional release. They remain charged with being members of the armed military group “Revolutionary Headquarters” (“Devrimci Karargah”), an accusation that Aylin Duruoglu firmly denies.

Another form of online harassment involves the Internet website *Agos*—the weekly founded by Hrant Dink, the Turkish-Armenian journalist fatally shot in 2007—which was hacked in February 2010 by individuals who admired the killer, even as setbacks and legal complications pile up during the trial of the alleged perpetrators of this crime.

Internet censorship is truly raising concern in Turkish society. The blogosphere has been protesting against the blocking of YouTube, and the mobilization campaign was relayed by the traditional media after an article on the subject was published in *The Wall Street Journal*. Virulent editorials have appeared in Turkish newspapers. One of them, printed in the *Milliyet* daily of February 17, 2010, was headlined: “Let’s take away Istanbul’s status as the European Capital of Culture”—a status granted by the European Union in 2010 in order to recognize Turkey’s cultural development. The censorship strategy adopted by Turkey, as publicized by the YouTube case, seems to conflict with its European ambitions and the contemporary image it wishes to project.



This is an official publication of the
**Commission on Security and
Cooperation in Europe.**

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