Testimony for the U.S. Helsinki Commission on Threats to Media Freedom in the OSCE Region
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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, the 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 socials 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, however, 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 café 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 Evgeniy 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 this case a reporter named Lukpan Ahmediarov.) 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 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 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.