Office of the OSCE Representative on Freedom of the Media

OSCE — The Representative on Freedom of the Media

Media in times of crisis:
Focus on media service providers

43rd EPRA meeting Barcelona 26 May 2016

1. Introduction

- Recent work and activities in the field and challenges to journalists and free media working in times of crisis

- Key observation as a backdrop for the discussion:

  - Media freedom is a reflection of the overall security situation.

    - In times of crisis, journalists and media members will always be among the first to be attacked, both physically and through harassment and intimidation.

    - Those in control of the security situation, will naturally want to take control of the «information environment» -one way or the other

    - This is also why monitoring and reporting attacks on media and other efforts to restrict and control are essential in all early warning work. OSCE as example, comprehensive approach to security.

  - Conflict and crisis give rise to many issues which might impact on journalist's ability to report.

- Media professionalism and ethics become crucial; how to secure unbiased and accurate reporting; how do journalists respond to the countless pressure from government, employers, even colleagues?

- Likewise, role of regulation becomes important. Becomes critical to create an environment that allows for free flow of information. Licensing, content regulation balance, defamation, incitement to violence, threats to public order and national security are the issues on the table.

- Outline of the presentation, three tematic headlines, referring back to background document. Issues will overlap.

Conflict in and around Ukraine

- Main challenges:
  - Threats, violence, harassment
  - Denial of access, accreditation
  - Blocking of television channels and content
  - Propaganda and media manipulation

- RFOM activities
  - Dialogue meetings, training for regulator, conferences, publications, recommendations

1. Intro
- Crisis in and around Ukraine priority no 1 for the OSCE, also RFOM work.

2. Main challenges
- Safety issues
  - First phase; Killings, threats, harassment of course major issue. First six months about 40 RFOM interventions. Violence, attacks, kidnappings, threats and harassment, including detentions, damages and.
  - Since start of conflict 8 journalists killed in Ukraine.
  - Still major safety issues to journalists working in different parts of Ukraine, situation is not improving. Governments are not doing enough to ensure journalists safety; or to investigate and prosecute.
  - RFOM PR this week; Journalist brutally beaten on his way to office by three unidentified men, southeast in the country.
  - RFOM PR earlier this month; a Kyiv-based website "Mirotvorets" revealed personal information of more than 4000 representatives of national and intern media accredited by the authorities in Donetsk, alleging that these journos co-operated with terrorist organizations and violated Ukrainian legislation. Some of the journos on the list immediately started to receive threats.
- Denial of access/accreditation issues

- From beginning recorded many incidents where journalists were denied access to information and events, often by force.
- First phase; denial of entry into Ukraine, as well as authorities de facto denying entry of journalists crossing the peninsula
- Russian journalists still faces majors problems in getting accreditation, security service is involved in the procedure, accreditation denied out of security concerns
- Also outside of Ukraine increasing use on travel bans, denial of visa/entry etc. on alleged "security reasons", mainly Russian journalists. Seen it in Baltic states, Poland.
- Denial of entry for foreign journalists; runs counter to OSCE commitment as outlined in Helsinki Final Act. RFOM Communique 3/4/14 on denial of entry of journalists from one OSCE pS to another.

- Blocking of television channels;
    - First phase in Ukraine; authorities in Crimes switched off almost all Ukrainian channels and replaced them with Russian channels.

    - Ukrainian authorities expressing concern about the influence of Russian television, leading to suspension of services. As of May 2016: 58 Russian channels has been suspended in Ukraine.

    - Also in other states, Russian tv-services have been suspended as discussed within EPRA. Regulators prohibiting rebroadcasts in several countries based on findings of "incitement to hatred", "biased reporting" etc.
    - RFOM Communiques 27/4/2014 on blocking television channels
    - RFOM PR 22/4/2016: amendment to the law on cinema, which tighten restrictions on distribution and broadcast of certain audiovisual materials, allowing a blanket ban of all Russian films produced since beginning of 2014.

- Propaganda and media manipulation
    - Propaganda for war; states are under a positive obligation to prohibit, ICCPR art 20. But international policy is hampered by lack of clear definitions of what constituted propaganda and hate speech, as rightly pointed out in background paper prepared for session.
    - Second type of propaganda; includes all the other faces: misinformation, fabricated news, trolling – all to push certain narratives in the interest of one party in the conflict. Challenges the neutrality, impartiality and professional standards but does not necessarily violate international law. Calls for action on another level.

3. RFOM activities

Toolbox to respond to propaganda

- Legal mechanisms, in line with ICCPR art 20 and 19
- Enforcing media pluralism and diversity
- Abolition of government-run media. Support of public service media with high professional standards
- Addressing root causes by broad set of policy measures, call for dialogue, advancing media education, promoting democracy based on peace, FoE and diversity
- Empower activities of national and int' HR and media freedom mechanisms, including independent monitoring institutions
- Enhance media and Internet literacy
- Media self-regulation, where effective, should remain the most appropriate way to address the challenges

Toolbox to respond to the challenges of propaganda included a legal response as well as other instruments, these are the conclusions as set out in the RFOM non-paper "Propaganda and Freedom of the Media"

- Legal response: if enforced in a judicial manner and with full respect of the rule of law, prohibiting propaganda for war and hatred assists and do not restrict freedom of expression.

- Clear-cut definition of the crime are then needed, with a solid basis in the law. In practice we have seen that this is not the case. Courts struggle in their analysis of propaganda for war, incitement, war and hatred.

- But Additional toolbox developed includes the following factors:

Violent extremism and terrorism

- Main challenges
  - Conceptual shortcomings
  - CVE measures, programs and initiatives
  - Blocking/filtering of Internet content
  - Broadening of investigatory powers; surveillance and sources protection
  - Encryption and anonymity

- RFOM activities
  - "OSCE comprehensive approach to security", joint workshops, joint declaration with recommendations

- 1. Introduction
  - The fight against terrorism and violent extremism, in tightening up national security, has in many ways become a threat to freedom of expression and media freedom
  - Something that occipies our office's work more and more.

- 2. Main challenges
  - Conceptual shortcomings
    - No generally accepted definitions of violent extremism, terrorism, radiclaization etc. Highlighted by the last report from UN Rapporteur on the promotion and protection of HR while countering terrorism.
    - Terms are often used interchangeably without clear delineation of boundaries between them.
    - Many countries criminalizing extremist views that does not amount to «incitement». Offences such as "advocating terrorism", "encouragement", "Glorification of terrorism" etc.
    - For many journalists it has become a dangerous exercise to report on terrorism, accused for being terrorists or extremists themselves.

- CVE programs and initiatives restricting FoE
    - Often not narrowly contrued. Must be based on evidence of effectiveness and legal framework to support necessity and proportionality to achieve legitimate objectives.
- A main concern is of course blocking and filtering of content.
    - In many countries blocking decision taken by administrative bodies, not based on law, lack of due process, independent judicial review.
    - Accordng to UN Human Rights Committee, permissibe restrictions on speech should be content-spesific and generic bans on the operation of webistes should be avoided.
    - Role of intermediaries and social media networks; Corporate censorship. Lack of transparency, accountability. Also faces pressure from governments.
- Broadening of investigatory powers
    - Tough measures aimed at improving national security are of course essential to prevent and counter extremism and terrorism
    - Many OSCE countries are adopting laws and regulation that are accordingly broadening investigatory powers, including those impacting on citizens' use of the Internet.
    - Surveillance powers are broadened and Internet companies are in many countries required to provide personal communication information to police and intelligence services. In this way the regulation expands the scope of cases where access to data is allowed.
    - Not only mass surveillance, we also see more and more targeted surveillance. Impacts journalists' sources protection. Governments are also increasingly applying criminal or national security measures to bypass traditional protections offered, by conducting searches of editorial offices and journalists' homes to seize unpublished material stored on digital devices.
    - Chilling effect.
- Encryption and anonymity
    - Encryption and anonymity provide the privacy and security necessary for the exercise of the right to freedom of expression in the digital age, and it may also be essential for exercising other human rights. UN Rapporteur on Freedom of Expression report June 2015.
    - Many countries discussing whether to prohibit encryption, allowing for backdoors where law enforcement and intelligence agencies can slide in. But will make encrypted files vulnerable to terrorists.
- 3. RFOM activities
    - Communique 06/14 on the impact of laws countering extremism on freedom

of expression and freedom of the media

- Media Freedom and Responsibilities in the Context of Counter-Terrorism policies" organized by TNT and RFOM in Bucharest 7-8 October 2015,
- Follow-up event this fall in Sarajevo focusing on CVE and freedom of expression online
- Joint declaration on freedom of expression and countering violent extremism, UN Rapporteur, RFOM, Representative on FoE for OAS, and the two African rapporteurs

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Migration crisis

- Main challenges
  - Safety issues; threats, attacks and harassment
  - Denial of access to refugee centers and other premises

- RFOM activities
  - Communiqué on the rights and safety of journalists reporting on refugees
  - Recommendations; respect right of journalists; no undue limitations on access to info, facilitation of access, promotion of self-regulatory mechanisms

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- Safety issues;
  - Several incidents where journalists reporting on the crisis beaten and harassed by police and border patrol, serious incident at the Macedonian border, in Hungary etc
  - But, journalists increasingly also becoming the target of public anguish and anger: Assaults on journalists by far-right activists during anti-migration rallies, law enforcement failed to investigate. A report in mid-January by EU-funded European Centre for Press and Media Freedom listed 49 attacks against the press in Germany in 2015
- Denial of access; Journalists increasingly find themselves banned from covering stories on the ground.
  - Denied access to refugee centres, and other premises that host refugees
  - Earlier this week, there were imposed restrictions on media covering the evacuation of the Idomeni refugee camp in Greece
  - Orders to leave; e.g. Denmark case where photograper was arrested will now be tries before courts
  - Reportedly also in some places journalists have been barred to cover public asylum debates (Netherlands. Reported by Index on Censorship)

3. RFOM activities

- Interventions on several occasions
- Communique no 3/2016; on the rights and safety of journalists reporting on refugees

Further Information

www.osce.org/fom

Twitter: @OSCE_RFoM

www.facebook.com/osce.rfom

www.youtube.com/osce.rfom

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