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Internet Freedom – Past and Current Challenges

Ask anyone with a computer, tablet, or mobile phone. Ask them how the development of the internet has affected them, their work, and their lives. You will get a wide variety of answers, but they will have one common denominator: transformation.

From the very beginning, ever since the days of its predecessor, the Advanced Research Projects Agency Network (ARPANET) in the 1970s and 1980s, the internet has been developed with the goal of creating a simple and effective system for communication. Today, the internet is the world's largest computer network, a network that has made communication possible among people, organizations, and societies all over the world.

From Vancouver to Vladivostok, the OSCE region and its 57 participating States contains some 820 million internet users. They all bear witness to the difference the internet has made in their everyday lives and the benefits it offers, such as educational and economic opportunities, and improvements in human rights, including the freedom to seek, produce, obtain, and impart information.

Looking beyond the OSCE region, the statistics on the global development of the internet are even more staggering. In 2000, there were 360 million internet users around the world. Thirteen years later, there are approximately 2.5 billion. However, some 1.9 billion young people still have no access to the internet and, in developing countries, only a quarter of people are online today.

These numbers show what remains to be accomplished with regard to the development of the internet. However, they do not touch upon one of the core challenges we are facing regarding the internet as a communication platform: keeping it free.

The argument for internet freedom at its very core is plain and simple. Basic human rights, including freedom of expression and freedom of the media, should apply in the online world as they do in the offline world.

These rights must be enforced in the digital age because online media supplement traditional media in protecting democracy, peace, and stability. This should be the starting point for any discussion of internet freedom, and it is also the very foundation of the work on internet freedom that the Office of the OSCE Representative on Freedom of the Media has carried out during the 15 years of its existence.

The connection between the OSCE and the internet goes back to the early days of computer networks and the birth of the OSCE as an international body in 1975. In fact, if we carefully read Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on

Political and Civil Rights, and the Helsinki Final Act, it is remarkable how the internet, its technology, and digitalization fits and supports these fundamental rights.

Article 19 of the Universal Declaration of Human Rights states as follows:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Even though this declaration was adopted in 1948, it has stood the test of time. In protecting freedom of opinion and expression, it clearly covers expression on the internet as much as an article in a newspaper or a conversation in a café.

The Helsinki Final Act of the Conference on Security and Co-operation in Europe (CSCE), signed in 1975, clearly formulated a specific approach towards the freedom and dissemination of information. This groundbreaking document still provides valid guidelines regarding the purpose and aim of the commitment today, i.e. the participating States should "facilitate the freer and wider dissemination of information of all kinds".[1]

Several other OSCE commitments have clarified how the principle of access to and dissemination of information is universally applicable to new technologies.

The 1989 Concluding Document of the Vienna Meeting further clarified the interpretation in relation to cable and satellite communication. The participating States committed themselves to "tak[ing] every opportunity offered by modern means of communication, including cable and satellites, to increase the freer and wider dissemination of information of all kinds".[2]

Further, in Ministerial Council Decision No. 12/04, from 2004, the participating States committed themselves "to ensur[ing] that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights, and to foster access to the Internet both in homes and in schools", and tasked the Representative on Freedom of the Media to "continue an active role in promoting both freedom of expression and access to the Internet" by observing relevant developments in all the participating States while advocating and promoting OSCE principles and commitments and monitoring compliance.[3]

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1   Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, here: p. 189.
2   Concluding Document of Vienna, Vienna, 15 January 1989, in: Bloed (ed.), cited above (Note 1), pp. 327-411, here: p. 362.
3   Permanent Council Decision No. 633, Promoting Tolerance and Media Freedom on the internet (PC.DEC/633 of 11 November 2004), Annex to Decision No. 12/04, in: Organ-

These documents and decisions included the internet as a platform to which the principles of freedom of expression and media freedom apply. They also established a general interpretation and practice regarding the inclusion of technological innovations under the protection of freedom of expression and the media.

In 2012, a landmark resolution was passed in the UN Human Rights Council in Geneva. With the adoption of Resolution 20/8, the UN Human Rights Council confirmed that Article 19 of the Universal Declaration of Human Rights applies online in exactly the same way as it does to conventional media.[4] The resolution was adopted by consensus by 47 countries, including China and Russia.

The OSCE Representative on Freedom of the Media has a long track record in working on internet freedom issues. The Office marked a decade of dealing with the challenging task of promoting media freedom on this new platform by hosting a conference in February 2013 entitled "Internet 2013 – Shaping policies to advance media freedom".

The Representative's stance on internet freedom was expressed as early as 2003 when the internet really took off as a platform and means of communication. In the preamble of The Amsterdam Recommendations on Freedom of the Media on the Internet, a product of the 2003 Amsterdam Internet Conference, the Office's overall position is clearly stated:

> Convinced that no matter what technical means are used to channel the work of the journalists to the public – be it TV, radio, newspapers or the Internet – the basic constitutional value of freedom of the media as a basic human right must not be questioned.[5]

This general guideline is still very much valid, even though the internet's scope and power to transform have developed exponentially in the decade since. The 2003 and 2004 Amsterdam Internet Conferences were the first events to bring the Office's full focus to bear on the topic of internet freedom (the recommendations from the latter were published in *The Media Freedom Internet Cookbook*).[6]

Since then, online freedom has been a priority for the Representative on Freedom of the Media, as evidenced by the activities initiated and carried out

ization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council, 6 and 7 December 2004*, MC.DOC/1/04, Sofia, 7 December 2004, pp. 34-35.

4   Cf. United Nations General Assembly, Human Rights Council, Twentieth Session, Resolution 20/8, The promotion, protection and enjoyment of human rights on the Internet, A/HRC/RES/20/8, 16 July 2012.

5   OSCE Representative on Freedom of the Media, *Amsterdam Recommendations, 14 June 2003, Freedom of the Media and the Internet*, at: http://www.osce.org/fom/41903.

6   OSCE Representative on Freedom of the Media, *The Media Freedom Internet Cookbook*, Vienna 2004, at: http://www.osce.org/fom/13836.

by the Office on this subject. These initiatives can be divided into three broad categories.

The first is that of the joint declarations. In 2005, the Representative presented a joint declaration with Reporters Without Borders on *Guaranteeing Media Freedom on the Internet.*[7] In 2011, the document entitled *International Mechanisms for Promoting Freedom of Expression, Joint Declaration on Freedom of Expression and the Internet* was presented by the Representative together with Special Rapporteurs from the United Nations, the Organization of American States, and the African Commission of Human and Peoples' Rights.[8]

The second category is the publication of articles from leading experts issued in the Office's annual yearbooks, as well as thematic publications, such as *Governing the Internet – Freedom and Regulation in the OSCE Region*[9] (2007), the *Social Media Guidebook*[10] (2013), and the *Online Media Self-Regulation Guidebook*[11] (2013).

The third way in which the Office has promoted the debate on internet-related topics is via the regional media conferences organized in Central Asia and the South Caucasus. These include the 7th Central Asia Media Conference (CAMC) in Almaty (2006), the 6th South Caucasus Media Conference (SCMC) in Tbilisi (2009), the 13th CAMC in Dushanbe (2011), and the 9th SCMC in Tbilisi (2012). Declarations were concluded at each of these conferences.

Ten years after the 2003 Amsterdam Internet Conference, the Office organized an OSCE-wide conference in February 2013 with more than 400 experts. The participants debated the most pressing issues of internet governance and self-regulation, social media and new media services, hate speech, the freedom of expression of minorities, and the future of copyright. The conference recognized that "the Internet, which is free by design, will only remain so by enlightened decisions of legislators, industry and users".[12]

During the last decade, the internet has evolved considerably. It has become an integral part of many citizens' everyday lives. It has changed how we engage with society, and it has brought new services and innovations we

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7   OSCE Representative on Freedom of the Media/Reporters sans frontières, *Joint Declaration of the OSCE Representative on Freedom of the Media & Reporters Sans Frontières on Guaranteeing Media Freedom on the Internet*, June 2005, at: http://www.osce.org/fom/15657.

8   *International Mechanisms for Promoting Freedom of Expression, Joint Declaration on Freedom of Expression and the Internet*, at: http://www.osce.org/fom/78309.

9   OSCE Representative on Freedom of the Media, *Governing the Internet. Freedom and Regulation in the OSCE Region*, Vienna 2007, at: http://www.osce.org/fom/26169.

10   OSCE Representative on Freedom of the Media, *2013 Social Media Guidebook*, Vienna 2013, at: http://www.osce.org/fom/99563.

11   OSCE Representative on Freedom of the Media, *The Online Media Self-Regulation Guidebook*, Vienna 2013, at: http://www.osce.org/fom/99560.

12   OSCE Representative on Freedom of the Media, Dunja Mijatović, *Shaping policies to advance media freedom, OSCE Representative on Freedom of the Media Recommendations from the Internet 2013 Conference*, at: http://www.osce.org/fom/100112.

could not even imagine only ten years ago. Even though the development of the internet has brought – and will continue to bring – unprecedented opportunities for all of us, we still have to be firm in safeguarding media freedom and freedom of expression regardless of the technology. Freedom of expression today means the internet has to be free.

If access to the internet is restricted, media freedom is under attack. It is as simple as that. That is why governments have an obligation to make sure their citizens' access to the internet is unhindered. It is also governments' obligation to implement laws and regulations that allow for independent and pluralistic media, regardless of platform. Freedom of expression and freedom of the media apply universally, regardless of how the technology develops.

One major change in the digital age is that the power to control and regulate content has shifted away from governments and towards users and platform providers. Governments do not have the same legitimacy or capacity to regulate the internet compared to traditional mass print and broadcast media.

Even though there is still a significant digital divide to overcome, it is clear that content is growing in importance over channels. It is the message itself – its credibility, usefulness, and appeal – that determines its reach, not access to powerful distribution channels.

While the fight used to be all about channels, today we see a tendency for governments to limit, regulate, filter, and block content on the internet under a range of pretexts, often sidelining international standards and due process. It is nothing less than an act of censorship if governments resort to direct orders to block and filter, sidelining public control and the courts. In many cases, blocking also results in even more attention being paid to the very information that regulators deem harmful.

The digital age requires a new way of thinking about security. Borders, walls, and fences do not work well in a networked world. With control, responsibility, and risks being shifted towards the users, governments need to play a different role: that of the facilitator. Governments need to help users to protect themselves from harmful information, criminal activities, and other dangers.

It is the individual user and citizen that must be empowered to protect themselves from harmful content by means of internet literacy programmes. Users should be enabled to operate filters and other means of blocking undesired websites themselves. We need to spend much more effort and resources on this, and less on trying to control or regulate centrally.

Resources must also be invested in campaigns to raise awareness of existing risks and measures that can be taken for protection. Just consider distributed denial-of-service (DDoS) attacks; if users were better informed about how to protect their devices from being hacked or hijacked by botnets, the risk of cyber-attacks would be significantly reduced.

No one claims that internet regulation is an easy task. Yet there is one very easy rule that we could apply: Those who govern least, govern best. Any regulatory or legislative measures must be decided upon with the backing of all stakeholders. Civil society, governments, and businesses should all work together to safeguard user control, choice, and privacy.

Another factor affecting internet freedom is the fast growing world of social media and how it is transforming the media landscape as we know it. Social media and social networks have definitely changed the way news is generated and accessed. They influence media in three ways: as a tool for the creation of content, in distributing and imparting information, and as a means for seeking, receiving, and accessing information. Needless to say, social media and social networks are becoming instrumental for the exercise of the right to media freedom and free expression.

But the rapid development of the internet and associated technologies also presents a challenge for our societies. This challenge consists of safely embedding the core principles of media freedom, free expression, and access to information within these new technologies. It is as relevant to the older democracies of the West as it is to the more recently democratized states of the OSCE area.

The OSCE promotes and fosters comprehensive security, an approach that takes human rights into account, many of which are increasingly exercised online. The logic is clear; human rights and human security support and reinforce each another. This translates into an understanding that there is no security without free media and free expression, and that there is no free expression and free media without security. These two terms should fit hand in glove and not fight each other as we see in so many parts of the world.

Freedom of expression – exercised online and offline – is also often a litmus test for the observance of other human rights in any given country. That is why issues viewed as serious threats to the development of internet and media freedom, no matter where they take place, must be publicized and dealt with.

It is our duty as citizens to ensure that the internet remains an open and public forum for the freedom of opinion and expression, as guaranteed by OSCE commitments, enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights.

It is the duty of the OSCE Representative on Freedom of the Media to continue to work for internet freedom. It has been – and will continue to be – one of the biggest challenges and most important tasks of this Office.