UN/OSCE: Joint Declaration on Media Independence and Diversity in the Digital Age

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Eugénie Coche
Institute for Information Law (IViR), University of Amsterdam

On 2 May 2018, in the light of World Press Freedom Day on 3 May, a Joint Declaration on Media Independence and Diversity in the Digital Age was adopted by the four special mandates for protecting the right to freedom of expression (the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the Organization of American States Special Rapporteur on Freedom of Expression, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights).

The Declaration starts by recalling the importance of an independent and diverse media for, inter alia, the functioning of democratic societies. It then identifies the current dangers for media freedom - including safety, legal, political, technological and economic threats - and sets out different principles in order to address these.

It first reminds the states of their positive obligation to both create an enabling environment for the seeking, receiving and imparting information and ideas and to protect media freedom. Concerning media safety, states have a positive obligation to afford protection to journalists and others who are at risk of being attacked.

In order to address legal threats, the Declaration stresses the importance of the rule of law in both the offline and online environment. When regulating online platforms or when requiring them to regulate content themselves, international law principles such as due process and transparency shall be respected. With regard to political threats, politicians should refrain from undermining the independence of the media and shall therefore not exercise pressure on online platforms to engage in content regulation. Moreover, politicians shall always comment or criticise the media in an accurate way in order to avoid any form of stigmatisation.

In order to counter technological threats, states shall respect the rule of law when conducting (digital) surveillance. Identifying confidential journalistic sources in an indirect way - through digital means - should be avoided. When implementing the "right to be forgotten", the requester should always demonstrate that the

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potential substantive harm to his/her privacy overrides any relevant right to freedom of expression. A balancing test, between the two rights involved, must thus always take place.

Concerning economic threats, states should outweigh these by allowing the media to access state resources in a transparent, fair and non-discriminatory way. A competitive environment should be secured, in which competition law rules are respected and where abuse of a dominant market position is precluded. In order to prevent monopolies or undue concentration of media or cross-media ownership from occurring, states should require transparency of media ownership.

The Declaration ends by reiterating the responsibility of media outlets and online platforms to respect human rights. It encourages them to adopt codes of conducts and fact-checking systems and to put in place self-regulatory systems. Online platforms should be as transparent as possible toward their users. They should refrain from exercising any undue influence on the work of the media and should respect its independence.

Declaration by the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe's Representative on Freedom of the Media, the Organization of American States' Special Rapporteur on Freedom of Expression, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, "Joint Declaration on Media Independence and Diversity of Media Content", 2 May 2018

http://www.ohchr.org/Documents/Issues/Opinion/JointDeclaration2May2018_EN.pdf

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