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CONFERENCE

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"Media Freedom Under Threat : National Problems, European Solutions?"

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**Speech by Borislav Tsekov, President of the Institute for
Modern Politics, Bulgaria**

BULGARIA: FEAR VS. FREEDOM

Dear Members of Parliament,
Ladies and Gentlemen,

I would first like to thank the Group of the Progressive Alliance of Socialists and Democrats for inviting me to take part in this conference. I am pleased to have the opportunity to present and discuss with you the Bulgarian experiences concerning freedom of the press and media.

To start with, here is one actual example from the Bulgarian reality that, in my view, indicates how free the media are:

Tapes were released with recorded telephone calls where the Prime Minister defied the law and commandingly told the head

of the customs authority to suspend an investigation of a bootlegger he had promised "not to touch". The source of tapes was not disclosed. The analysis of a prestigious Paris-based laboratory proved the recordings were authentic. How was this fact covered by the media? This is the question.

- *The free media* - there the main question was about the content of the Prime Minister's conversations; the reason and the justification for doing this. The media wondered whether it was a bargain with influence and whether it was evidence of *clientelisme* and corruption. The question of the non-disclosed source of the tapes was asked only after.

- *The dependent media* - there the content of the dialog was a taboo and questions of secondary importance were asked like: who supplied the tapes; what is the frequency; were the tapes recorded from other tapes; was there eavesdropping from the special services; it was even insisted that if the source won't be disclosed, it is to be automatically deduced that the whole thing had been a concoction.

If the coverage could invite a judgment, then regretfully and evidently, some of the major printed media and broadcasters in Bulgaria are not free.

Probably this line of conduct of dependent media has a complicated genesis which includes, inter alia, possible dependence of some media owners on the authorities and media clientelisme. However, what is more important is that, at least in our view, the roots of an essential part of the reasons for the erosion of the freedom of the media in Bulgaria over the past year are to be sought in the ambiance of fear and curtailment of fundamental rights. The fear is instilled by the authorities which use the Ministry of Interior and the special services and by the government whose political foundation is a marriage of the populism of GERB and of the ultranationalist and xenophobic party Ataka.

That the authorities in Bulgaria instill fear couched in the phraseology of "countering organized crime" could be traced along two lines at least:

First, at political level. In a series of public statements the governing majority put criticisms against the government on a par with involvement in organized crime. Here are some facts:

- An official declaration of the Political Party GERB claims that "the enemies of GERB are the enemies of

statehood" and that the political opposition is part of organized crime.

- The Chair of the GERB Parliamentary Group Krassimir Velchev made public the intention of the majority to pass "a new libel and offence act" that will provide for harsh sanctions on media and journalists. This intention raised serious concern of Reporters without Borders.
- In end 2010 the government approved a draft act that would impose even harsher sanctions, imprisonment included, for discriminatory statements in the media and thus open up the way for biased interpretations and infringements on the freedom of speech. The proposed piece of legislation referred to was likewise severely criticized by Reporters without Borders.
- On 10 February 2011 a bomb was planted and detonated at the offices of "Galeria" which is one of the newspapers most critical of the government and which published the mentioned scandalous transcripts of conversations of the Prime Minister and other cabinet ministers. Speaking to the media immediately after the explosion Prime Minister Borissov chose to accuse "Galeria" of engineering the explosion rather than to wait and see the findings of the investigation that had just been launched. In contrast, the European Commission asked for a full and impartial investigation. The European Federation of Journalists expressed its grave concern over the Bulgarian authorities' self-complacency and contempt vis-à-vis the explosion.
- In a series of public statements Prime Minister Boyko Borissov said that ministers and officials at all levels of the administration are bugged for the sake of prevention and in disregard for their civil rights. This encourages erratic conduct and disregard for the rights of citizens; this instills fear and a feeling in citizens and media alike that the Ministry of Interior and the security services can violate their rights and give political justification for that. Such statements are particularly alarming in the society of a country like Bulgaria where people still remember how they feared the machinery of repression of the totalitarian secret services which en masse resorted to such methods of surveillance, bugging devices and curtailment of rights of certain categories of citizens.

Second, such a frame of mind of today's Bulgarian government did materialize in a consistent policy that erodes fundamental civil rights - the privacy of correspondence and communications, the presumption of innocence and the right to fair trial. The Modern Policy Institute's Special Report to the European Parliament and to the European Commission is a

detailed fact-finding document and a human rights watch analysis of what the Bulgarian Ministry of Interior and security services did over the past year in a way that threatens or directly infringes on fundamental rights.

Here is a summary of the three groups of problems that cause concern:

a) Overuse of special surveillance devices (SRS) inconsistent with the criteria of proportionality and need in a democratic society.

While one of the first amendments that this government passed was intended to abolish the independent watchdog authority on SRS use, the range of crimes to which SRS could be applied was unjustifiably expanded. Here is the result: on 7 February 2011 the Supreme Court of Cassation reported that in 2010 the special surveillance devices employment was triple over 2008, however the efficiency went down considerably (in 2008: 5988 SRSs of which 908 were used in the courtroom; in 2010: 15,946 SRSs of which 1918 served as evidence in trials.)

I do emphasize that the drastic increase of SRS employment in Bulgaria is not to be attributed to antiterrorist measures; the SRSs are employed in the routine fight against crime. As a consequence this violates the rights and freedoms of scores of citizens who don't commit crimes but whose phones are tapped in order to investigate suspects and that without any reliable legal and practical guarantees to prevent possible abuse of personal data or information. In its statement of 3 February 2011 the Parliamentary Subcommittee for Special Surveillance Devices Control officially admitted the abuse.

The problem deteriorates when it comes to the great number of interceptions of citizens' Internet communications and the transcripts from telephone conversations as it is difficult to explain this number with the need of countering crime and corruption, the amount of pretrial proceedings and indictments.

b) In 2009-2010 there was an alarming increase of police violence and brutality and in addition, there was not an efficient tool to investigate such cases without bias: it is a conclusion which is confirmed, inter alia, by the PACE Resolution 1787 (2011) which puts Bulgaria in the company of the nine countries that systematically fail to comply with the Strasbourg Court judgments concerning police violence. In addition the presumption of innocence is disregarded as is the right to a fair trial when the Minister of Interior pronounced preliminary "verdicts" in the media.

c) Alarming cases of using the Bulgarian security services to political ends and to the disadvantage of the freedom of expression.

Acting on an anonymous whistle blow the Speaker of Parliament Tsetska Tsacheva asked the State Agency for National Security (SANS) to probe an opposition party's collection of 600,000 signatures of Bulgarian citizens who want a referendum. The SANS probed 1850 signatures that, as the Agency insists, were randomly picked up. SANS agents knocked at 757 doors in several cities. Unlucky citizens report that the SANS agents did not perform a normal verification of personal data that had been entered into the list of signatures. The agents interrogated about political views, affiliation with one political party or another and reasons for signing the call for referendum. Neither the Prosecution nor the Ombudsman has examined these claims efficiently though the latter was ultimately informed about the case.

Here are some other similar examples: members of "green" organizations were summoned by the police authorities to give explanation about their repeated applications to access public information in Varna.

In general, freedom of media in Bulgaria is undergoing a trying ordeal. However, what else is to be expected in a state where the authorities deliberately work to instill fear, where the government violates the law and bugs citizens en masse, where the authorities' official opinion is that anyone who criticizes them is a criminal, where heavily armed special units raid homes after midnight and ignore the presence of children and arrest citizens who are neither absconders nor do they constitute a menace or else tell a harmless woman in the street to prostrate herself before them without any evidence of a crime committed and afterwards release videotapes in the media to show their "active fight against crime".

Where the authorities arouse fear, freedom, freedom of the media included, is in danger!