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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE  
QUESTION OF FREEDOM OF EXPRESSION**

**The right to freedom of opinion and expression**

**Report of the Special Rapporteur, Ambeyi Ligabo**

## **Summary**

This report, submitted pursuant to Commission resolution 2005/38, is the thirteenth report presented by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Commission on Human Rights and the fourth general annual report of Ambeyi Ligabo, appointed as Special Rapporteur on 26 August 2002. A summary of communications sent to and received from Governments is contained in addendum 1 to the present report.

Chapter I describes the activities of the Special Rapporteur during the past year, particularly urgent appeals, allegation letters and press releases. Governments, international, regional and national organizations, local NGOs, associations of media professionals, writers' associations, trade unions and members of political parties from all regions of the world, supply information to the Special Rapporteur. The analysis of this material allows us to identify trends, deepening his look at issues already examined in previous reports and highlighting new policies, practices and measures relevant to freedom of opinion and expression. Furthermore, it ultimately allows the Special Rapporteur to intervene in individual cases of alleged violations of human rights. In this chapter, the Special Rapporteur also makes available information concerning invitations for country visits and reports on the meetings he attended during the year, with a brief description of his contributions.

Chapter II contains an overview of the final phase of the World Summit on the Information Society and a reference to the human rights situation in the host country, Tunisia. The Special Rapporteur examines the shortcomings of the World Summit where human rights issues were, in his opinion, marginalized by a commercial business approach to Internet governance and by the attitude of the host country, which made all efforts to silence local and foreign human rights activists. The future establishment of an intergovernmental body dealing with Internet governance, and its link with human rights, is amply treated in this section, where the Special Rapporteur also provides an analysis on the most recent development concerning legislation on defamation. Finally, the Special Rapporteur examines the most recent initiatives with regard to security and protection of journalists and media professionals and its repercussion on the free exercise of the right to freedom of opinion and expression.

Chapters III and IV contain several conclusions and recommendations in which the Special Rapporteur takes stock of the situation of freedom of opinion and expression as a global phenomenon, invites countries to take ad hoc remedial action and suggests the adoption of relevant national legislation in accordance with international human rights and humanitarian instruments. These chapters include specific references to the outcomes of the World Summit on the Information Society and Internet governance, national legislation on defamation and, last but not least, security and protection of journalists and other media workers.

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## **Introduction**

1. The Commission on Human Rights established the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in its resolution 1993/45. The present report, submitted pursuant to Commission resolution 2002/48, is the fourth general report by Ambeyi Ligabo, who was appointed Special Rapporteur on 26 August 2002.
2. Since the inception of the mandate in 1993, the notion of freedom of opinion and expression has constantly been evolving because of the advent of new technologies and the consequent increase of the demand for information. The universal availability of new tools for communication and information may give a great impetus to social advancement and to the dissemination of education and knowledge, thus widening the scope of the right to freedom of opinion and expression.
3. Legislation on new technologies appears to be a major preoccupation, even in environments traditionally favourable to freedom of expression. It has also opened a large debate on the limit between the right to access to information and the right to privacy. Unfortunately, new and old technologies are increasingly used as more or less sophisticated tools for political propaganda, including racial discrimination and hate speech, thus contributing to the proliferation of polarization of ideas and ethnic tension.
4. Issues addressed in this report include, inter alia, an update of matters analysed in the Special Rapporteur's previous reports, in particular defamation, the security of journalists and an analysis of the outcome of the World Summit on the Information Society, held in Tunis from 16 to 18 November 2005.

## **I. ACTIVITIES**

### **A. Communications and requests for information**

5. One of the most significant features of the Special Rapporteur's mandate is the analysis of the communications received in order to identify new trends, to add new elements on issues already examined in previous reports and to focus the attention of the international community on policies, practices and measures having an impact on the respect for freedom of opinion and expression.
6. As a rule, the Special Rapporteur studies and assesses information and communications coming from a plurality of sources - Governments, international, regional, national and local non-governmental organizations; associations of media professionals, writers' associations, trade unions, members of political parties - and from all regions of the world. The quality and the quantity of information received are essential to the discharge of the mandate and are a significant indicator of the degree of implementation of the right to freedom of opinion and expression. The Special Rapporteur may also decide to take initiative *motu proprio* on issues of general concern that he considers relevant to his mandate.
7. Most of the cases received by the Special Rapporteur relate to violations against media professionals, human rights activists, political groups and their members. Lawyers, students,

academics and trade unionists are other categories subject to violations in addition to the ordinary citizen, especially as a member of a vulnerable group, such as women, peasants, members of ethnic minorities, and persons supporting and/or working with the above-mentioned categories.

8. The systematic repression of the most active sources of freedom of expression and opinion-making - journalists, trade unionists, social workers, students and teachers, writers and artists - often follows an identical approach in different countries around the world. While the extent of the repression, its duress and length may substantially vary, allegations received are not confined to countries where the political, social and economic situation is particularly difficult, but also concern violations occurring in transitional or long-established democracies.

9. Repression in the form of blatant human rights violations can significantly differ, depending, inter alia, on the existence of the rule of law and its relevance in a given society. Therefore, the range of violations includes killings, enforced disappearances, arbitrary arrest and detention, mistreatments, threats and harassment, unfair trials and various types of judicial and administrative measures. Criminal charges, sentencing to prison terms and the imposition of heavy fines for defamation, libel and slander are still common, even though a few countries have adopted new legislation moving this category of offence under civil law.

10. From 1 December 2004 to 30 November 2005, the Special Rapporteur sent 497 communications: 312 urgent appeals, 242 of which were signed jointly with other Special Rapporteurs, and 185 allegation letters, 69 of which were signed jointly with other rapporteurs. Communications covered 1,291 individuals: 12 per cent of whom were women, 82 per cent men, while the remaining were institutions or enterprises. The table below reflects the geographical breakdown.

**Table 1**

Region	Number of communications	Percentage
Africa	126	21
Arab Region	92	15
Asia-Pacific	168	28
Europe and North America	100	16
Latin America and Caribbean	114	19

11. The Special Rapporteur is appreciative of all those Governments that, in a spirit of cooperation and understanding, answered his appeals and letters, thus exercising their right to reply (see E/CN.4/2006/55/Add.1).

### **B. Press releases<sup>a</sup>**

12. In a joint statement dated 8 February 2005, the Special Rapporteur and eight other mandate holders expressed serious concern about the situation in Nepal in the aftermath of the dissolution of the legal Government, the proclamation of nationwide state of emergency, the suspension of constitutional guarantees and civil and political liberties.

13. On the occasion of World Press Freedom Day - 3 May 2005 - the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur for freedom of expression of the Organization of American States, the Representative on freedom of the media of the Organization for Security and Cooperation in Europe, and the Special Rapporteur on freedom of expression of the African Commission on Human and Peoples' Rights issued a statement in which they paid tribute to the courage and professionalism of the numerous journalists and other media professionals either killed or wounded on account of their professional activities.

14. The Special Rapporteur on the right to freedom of opinion and expression, together with the Special Rapporteur on violence against women, the independent expert on the situation of human rights in Liberia, the Special Rapporteur on the right to the highest attainable standard of physical and mental health, the Special Rapporteur on the right to education, the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on the human rights of migrants, issued a statement, on 24 June 2005, in which they expressed their alarm regarding mass forced evictions in Zimbabwe and related human rights violations.

15. On 15 July 2005, the Special Rapporteur on the right to freedom of opinion and expression, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention issued a statement in which they conveyed their concern at the continued refusal by the authorities of the Islamic Republic of Iran to provide the imprisoned journalist and writer Akbar Ganji with appropriate medical attention.

16. On 16 September 2005, the Special Rapporteur on the right to freedom of opinion and expression issued a statement regarding again the situation of Akbar Ganji, in which he called on the Government of the Islamic Republic of Iran to grant Ganji an unconditional amnesty on humanitarian grounds and to release him without further delay.

17. In a press release dated 14 October 2005, the Special Rapporteur on the right to freedom of opinion and expression urged the Government of Tunisia, on the eve of the World Summit on the Information Society, to release unconditionally all press- and opinion-related prisoners and to allow the full exercise of the right to freedom of opinion and expression in the country.

18. On 16 November 2005, the Special Rapporteur on the right to freedom of opinion and expression, together with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders issued a statement dedicated at the deterioration of the human rights situation in the World Summit on the Information Society host country, Tunisia, with special reference to freedom of expression and association, and the independence of judges and lawyers.

19. On 15 December 2005, the Special Rapporteur on the right to freedom of opinion and expression issued a statement on the World Summit of the Information Society, which included some considerations on the future of Internet governance, notably the establishment of an intergovernmental organization.

### **C. Country visits**

20. Since his appointment, the Special Rapporteur has visited Colombia, Côte d'Ivoire, Equatorial Guinea, the Islamic Republic of Iran, Italy, and Serbia and Montenegro. He would like to thank again those Governments for their cooperation and expresses his appreciation to the Government of Serbia and Montenegro for extending, from 11 October 2005, a standing invitation to all thematic special procedures of the Commission on Human Rights.

21. In recent months, the Special Rapporteur has received invitations from the Governments of Guatemala, Honduras, The former Yugoslav Republic of Macedonia, Sri Lanka, Ukraine and, more recently, Algeria, Azerbaijan and the Libyan Arab Jamahiriya. The Special Rapporteur wishes to express his appreciation to these countries for their invitations and to reiterate the need for early and comprehensive planning in order to carry out visits within reasonable time and with mutual satisfaction. Therefore, he did not seek any further visits in 2005.

22. The Special Rapporteur wishes to restate that the full cooperation of Governments is an essential factor for a successful outcome of country missions. Governments should be open to dialogue with the special rapporteurs on issues that may come up before, during and after the visits and should guarantee free access to all people and places that special rapporteurs request to meet.

### **D. Participation in seminars and conferences**

23. On 31 March 2005, the Special Rapporteur introduced his report (E/CN.4/2005/64 and Corr.1 and Add.1-5) at the sixty-first session of the Commission on Human Rights. In his presentation, the Special Rapporteur mentioned a number of issues that were of particular significance for his mandate: security of media professionals, media concentration and the implementation of the right to information, defamation, hate speech and the then-upcoming World Summit on the Information Society. He then updated the Commission on his past activities, including communications, which he implemented and those that he planned to carry out. Finally, he briefly mentioned the findings of his missions to Colombia, Serbia and Montenegro, and Italy.

24. During the sixty-first session of the Commission on Human Rights, the Special Rapporteur had the opportunity of consulting with representatives of the following countries: Algeria, Azerbaijan, Canada, Denmark, Guatemala, Honduras, Italy, The former Yugoslav Republic of Macedonia and Sri Lanka. He also held a long briefing with the press and non-governmental organizations immediately after his presentation before the Commission and met several other non-governmental organizations at OHCHR headquarters.

25. The Special Rapporteur participated in the celebration of World Press Freedom Day on 3 May 2005, organized by UNESCO in Dakar. The theme of the Dakar meeting was the role played by the media in promoting democracy and good governance by ensuring transparency and

accountability, promoting participation and the rule of law, and contributing to the fight against poverty. In his address, the Special Rapporteur stated that the World Press Freedom Day was an opportunity to remind the world of the importance of article 19 of the Universal Declaration of Human Rights protecting, *inter alia*, the freedom of the press at a time when the lack of security of media professionals, the consequences of media concentration and legislation on defamation could considerably endanger media freedom.

26. The Special Rapporteur was also invited to the International Press Institute World Congress and 54th General Assembly, held in Nairobi, from 21 to 24 May 2005, where he participated in a panel entitled “Pluralism and democracy, the African experience”. In his speech, the Special Rapporteur stated that the African continent was still marred by long and painful armed conflicts, ethnic divisions and a deficit in democracy. Decades of international and domestic mismanagement of resources have impoverished large parts of African societies. The prevalence of impunity of human rights violations was dictated by the lack of a comprehensive rule of law system and large deficiencies in the administration of justice. Yet, the quest for freedom of opinion and expression by all African peoples was higher than ever and the access to modern communication technologies may open new paths for human and economic development.

27. The Special Rapporteur attended the twelfth meeting of the special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures and advisory services programme of the Commission on Human Rights, held in Geneva from 20 to 24 June 2005 (see E/CN.4/2006/4).

28. The Open Society Institute/Foundation’s Network Media Program and the United Kingdom’s Department for International Development (DFID) jointly hosted a major international policy forum in London, on 13 and 14 October 2005, for donors who work in the field of freedom of expression, communication and media support. The Special Rapporteur was also invited to the annual European Union/human rights non-governmental organizations forum on freedom of expression, held in London on 8-9 December 2005. Unfortunately, due to his tight schedule, the Special Rapporteur was unable to participate in those forums but he wishes to express his appreciation to the organizers.

## **II. ISSUES**

### **A. Internet governance and human rights**

#### **General considerations**

29. The final phase of the World Summit on the Information Society, held in Tunis from 16 to 18 November 2005, was the conclusion of a long process that has seen strenuous debates around issues, such as global access and exploitation of Internet resources and enhanced dissemination and availability of information.

30. The Internet revolution has definitely opened a new era for freedom of opinion and expression, not only for the creation of innovative information and communication channels, but especially for the numerous opportunities for the dissemination of education and knowledge, elements that are at the core of human progress. Access to all sorts of databanks, including



libraries, in addition to media information could represent a decisive factor for the advancement of education and human development. Internet availability may have a terrific impact on the quantity and quality of information at the disposal of the most disadvantaged classes, especially the rural poor. Internet in remote villages and slums could replace or supplement schooling that may be difficult to access because of distance, lack of proper structures or their degradation. The international community at large, including private enterprises, should not miss the opportunity of providing a chance for substantial human and economic development in less favoured countries and populations through the exploitation of Internet resources.

31. The Special Rapporteur observed that there was much emphasis and focus on purely technical and business matters in the Summit's work while the link, and its numerous ramifications, between new technologies and human rights, was almost completely neglected. The main organizer, the International Telecommunication Union (ITU), did not provide an environment conducive to debating human rights issues. Several non-governmental organizations raised a number of objections regarding the human rights situation of the WSIS host country.<sup>b</sup> It should be noted that the decision to hold the second phase of the Summit in Tunisia was autonomously taken by Governments members of the Council of ITU, which in 2001 accepted the offers submitted by Switzerland and Tunisia to host the first and the second phases of the Summit in 2003 and 2005.

32. The final phase of the Summit held in Tunis followed the path traced by the Geneva Phase with plenary sessions where chiefs of State and high representatives read formal statements of little substance. Only a few of them mentioned human rights and their link with Internet governance. Among non-State speakers, the Special Rapporteur wishes to commend the statement made by Aidan White, the Secretary-General of the International Federation of Journalists, on media freedom.

33. The ground for discussion was more fertile in the numerous parallel events. The Special Rapporteur participated as a panellist in a meeting organized by the European Union entitled "Les Parlementaires européens rencontrent la société civile: les droits humains et la société de l'information" on the issue of Internet as a tool for development. In his speech, the Special Rapporteur said, *inter alia*, that Internet availability may encourage entrepreneurial spirit and promote fair trade; it may quickly provide support for humanitarian crises regardless to their size and extent; it may help research in many strategic fields for the progress and the welfare of human beings. Internet may supply replies and solutions to problems that otherwise could not be dealt with in a reasonable amount of time. Ultimately, it may give a crucial contribution in saving lives.

34. The Special Rapporteur was impressed by the presentation made at the WSIS of a computer model to be sold for US\$ 100, specially conceived for the upgrading of education tools in less developed countries and areas. This kind of equipment, with the increasing availability of software free of charges might really give a terrific boost to the dissemination of information, knowledge and education throughout the world.

35. The "Connect the World" initiative launched by ITU in June 2005, in partnership with the public and private sectors working in the field of communications, targets villages - ITU

estimates that 30 per cent of villages worldwide are still without any kind of connection. Its main purpose is to bring access to information and communication technologies to approximately one billion people, living in remote and less remote areas, by 2015.

### **Suitability of an intergovernmental body focused on Internet governance**

36. A private, non-profit corporation, the Internet Corporation for Assigned Names and Numbers (ICANN), based in the United States of America, has so far allocated Internet domain names on a purely technical basis. It is thus conceivable that Governments could propose the creation of an intergovernmental organization to govern Internet matters globally. One of the main goals of this new organization would be to promote the use of Internet and other modern technologies for non-profit purposes, such as the dissemination of information, education and knowledge.

37. Internet is a unique opportunity for opening all peoples to an increasing exchange of information, opinions and ideas. Moreover, the worldwide availability of Internet resources might greatly contribute to economic, social and cultural progress, particularly in developing countries. Private corporations, which have been playing a crucial role in the promotion of modern technologies, the United Nations, States and civil society will have to cooperate closely in order to make sure that human rights will be a fundamental and unavoidable component of the future of Internet governance. Should it entail high costs for regular customers, the digital divide will become deeper, and the capacity of Internet and other technologies to provide information and other basic services would ultimately be wasted.

38. The establishment of an intergovernmental organization on Internet governance would also make it easier to deal with the proliferation, through worldwide availability of Internet resources, of websites that could increase the phenomena of child pornography and prostitution, the sexual exploitation of women, racial discrimination, xenophobia, hate speech and similar grave human rights violations.

39. Regional and national authorities, in order to prevent or minimize this risk, can implement all legal means without restricting freedom of opinion and expression in other fields. While international collective action is always advisable, States should be ready to act independently: crimes such as child pornography and hate speech may effectively be thwarted through, among other initiatives, the establishment of special units working on cybercrimes.

40. The Special Rapporteur received numerous reports of harassment, arrest, trial and detention of Internet writers in several countries, especially in the Asian continent where Internet use is widely popular. Law-enforcement agencies closed several websites and arrested ordinary customers and bloggers, who have subsequently been charged of opinion-related offences, such as defamation or slander, and terrorist-like activities such as “acts against State security”. It is highly probable that some Governments would exercise pressure within any intergovernmental body with global jurisdiction on Internet governance and that the present level of freedom of expression could not be maintained. Therefore, such an institution must be solidly anchored to the principles of freedom of opinion and expression as enshrined in international human rights instruments.

41. The Special Rapporteur wishes to endorse the joint declaration of the Organization for Security and Cooperation in Europe (OSCE) Representative on freedom of the media and the non-governmental organization Reporters Without Borders on guaranteeing media freedom on the Internet, made on 21 June 2005. The six articles of the declaration well define basic principles for open Internet governance, especially with respect to the rights and prerogatives of media to be extended to online journalists.

42. In July 2005, the European Parliament took a significant stand on violation of privacy rights and the “rights relating to the personality”: the law of the country to which the publication or broadcasting service is principally directed and the country in which editorial control is exercised will govern rights relating to the personality affirming claims for infringement of these rights. The Parliament’s decision means that, in most cases, journalists could be sued in no more than two countries and that the claimant cannot freely choose a country with a more restrictive approach on press freedom.

43. The Special Rapporteur noted that several organizations released statements on Internet governance. The declaration signed by the Committee to Protect Journalists, the Inter American Press Association, the International Association of Broadcasting, the International Press Institute, the World Association of Newspapers and the World Free Press Committee, meeting in Belgrade for World Press Freedom Day on 3 May 2004, reflects the preoccupation of a large portion of media professionals about the future of Internet governance and the increasing pressure of Governments on Internet providers, online journalists, bloggers and ordinary customers.

## **B. Freedom of expression and defamation**

44. Freedom of opinion and expression is an essential element of all societies.<sup>c</sup> It allows the ordinary citizen to participate in public life in a constructive way, through the gathering of information, data and information analysis, which contribute to the citizen’s awareness and ability to form opinions. Having collected information, the citizen can make his/her own assessment on public matters and fully participate in several aspects of the decision-making process, for example the right to vote, thus exercising his/her right to express his/her views. Governments and national authorities should guarantee that the citizen receives a maximum of information on any subject he/she wishes and that, if needed, he/she can challenge any decision that, in his/her opinion, entangle his/her rights to information, thus to the negation of his/her right to personal development and dignity.

45. Defamation is an intentional false communication that injures another person’s reputation, being the communication without the consent of the allegedly defamed person. Slander and libel are two forms of defamation. Slander is commonly identified as a defamatory statement expressed in oral form, while libel is a written defamation. Generally, radio and television broadcasts that are defamatory are considered to be libel, rather than slander, because the majority of programmes are recorded so that the defamatory statement can be retrieved. Insult laws - known as *desacato* laws in Spanish-speaking countries - make it a criminal offence to “insult” the honour or dignity of public officials through both oral and written statements.

46. The right to freedom of expression is probably the most striking example of the difficult balance between different freedoms and rights and their interdependence. While imparting and

seeking information may have different purposes, the right to freedom of expression, especially when exercised by the press, can at times collide with the right to privacy. International instruments and national legislation provide a variety of responses to the conflicts that can arise from the exercise of freedom and rights, and on the way in which these kinds of conflicts should be dealt with.

47. Important aspects to take into consideration when discussing defamation issues are the right to criticize and the right to privacy. The right to criticize is a fundamental part of freedom of expression and of the correct functioning of a democratic society, especially on matters of public interest. Of course, this exercise can also involve criticism of individuals, particularly States' high-ranking officials and political personalities.

48. There are a few legitimate limitations on the exercise of the freedom of expression, which, as set out in the International Covenant on Civil and Political Rights, "carries with it special duties and responsibilities" (art. 19). Accordingly, it may be subject to certain restrictions, provided by law and necessary for respect of the rights or reputations of others and for the protection of national security or of public order, or of public health or morals. Yet, the restrictions should not put the right in jeopardy. Defamation laws should strike a balance between the right to privacy, and more specifically the right to protect one's reputation, with the rights to freedom of speech and access to information.

49. The right to reply balances the exercise of the right to criticize. The Convention on the International Right of Correction<sup>d</sup> was the product of an historical period, the so-called "cold war" era, and while the convention seems applicable to countries parties to it and their representatives, its application to disputes involving ordinary citizens, in their private capacity, seems questionable. By all means, defamation laws cannot be justified on the grounds that they help maintain public order, national security or friendly relations with foreign States or Governments.

50. International norms, and in several countries domestic legislation also, prevent Governments, political and economic lobbies from restricting freedom of speech, as part of the right to freedom of expression. Yet they may find it convenient to use defamation laws to sanction the allegedly harmful effects of criticism. It should be noted that the right to reply and the right to protect one's own reputation, including the possibility of seeking remedial action, are generally well covered by regional instruments, such as the American Convention on Human Rights in its articles 13 and 14.<sup>e</sup>

### **Decriminalization of defamation and similar offences**

51. The issue of the decriminalization of defamation and similar offences has been comprehensively discussed at international meetings at which experts drafted principles and guidelines for action. In recent years, several countries replaced criminal defamation laws with appropriate civil defamation laws, a measure that also allows reducing the workload and costs of overburdened judiciary systems. Unfortunately, some of these countries did not abolish offences such as those that "insult to national institutions and or national symbols" which can easily be used in relation to allegedly defamatory statements.

52. The threat of criminal sanctions, in particular imprisonment, exerts a chilling effect on freedom of expression. Prison sentences, suspended prison sentences, suspension of the right to express oneself through any particular form of media or to practise journalism or any other profession, excessive fines and other harsh criminal penalties should never be available as a sanction for breach of defamation laws.<sup>f</sup>

53. In December 2000, Abid Hussain, then Special Rapporteur on the right of freedom of opinion and expression, the OSCE Representative on freedom of the media, and the OAS Special Rapporteur on freedom of expression recommended that member States review their defamation laws in order to ensure that they did not restrict the right to freedom of opinion and expression and to bring them into line with their international obligations. In particular, they insisted on the repeal of criminal defamation laws in favour of civil laws and the repeal of laws, such as *desacato* laws, which provide special protection for public figures.<sup>g</sup>

54. The participants at the conference on libel and insult laws, organized by the Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media and Reporters Without Borders, held in Paris in November 2003, recommended, inter alia, that Governments should support the decriminalization of libel and the repeal of the so-called insult laws, particularly to the extent that they provide special protection for the honour and dignity of public officials. They recommended to legislatures that criminal libel and defamation laws should be repealed, where necessary, with appropriate civil laws. They also recommended judicial bodies to interpret narrowly what is considered to be defamatory and, to the extent possible, this consideration should be limited to statements of facts and not opinions.<sup>h</sup>

55. The Special Rapporteur wishes to endorse efforts toward the decriminalization of defamation and similar offences. Any criminal defamation laws still in force should include the principle that no one should be convicted for criminal defamation unless the party claiming to be defamed proves that the impugned statements are false and that they were made with actual knowledge of their falsity. As pointed out above, defamation laws should guarantee the protection of the right to privacy, especially the protection of reputations. However, in many countries defamation laws are frequently used to stifle public debate about matters of general concern, and to limit criticism of officials. Public officials and authorities should not take part in the initiation or prosecution of criminal defamation cases and should not be granted greater protection than the ordinary citizen; they should instead tolerate more criticism because of the nature of their mandate.<sup>i</sup>

### **C. Security and protection of media professionals**

56. Press freedom is one of the pillars of a democratic society. Consequently, States have the primary responsibility to ensure protection and security of journalists and are also responsible for ensuring that crimes against media professionals are brought to justice. Comprehensive and pluralist information can only be guaranteed if media professionals are allowed to work with sufficient protection and security.

57. According to a reliable source, the International News Safety Institute (INSI),<sup>j</sup> as of 1 December 2005, 86 journalists and 5 media staff had been killed since the beginning of the year, making 2005 one of the most dangerous years for media professionals in the last decade.

While final data for 2005 will be available only at the beginning of 2006, other press institutions and associations offer figures that nonetheless confirm the trend suggested by INSI. Other discrepancies between figures could be justified by a different evaluation of press professionals' status, such as belonging to a press association and/or to organizations defending human rights. Unfortunately, as in 2004, Iraq and the Philippines proved to be the deadliest countries for media workers in 2005, with almost half of the killings perpetrated. According to another reliable source, the Committee to Protect Journalists,<sup>k</sup> China, Cuba, Eritrea and Ethiopia detained a large majority of the 125 media professionals behind bars worldwide as of 1 December 2005.

58. Media professionals killed during military operations can either fall in the crossfire or be specifically targeted because of their work. The Special Rapporteur also received allegations concerning military operations that would principally have targeted media professionals. Many other journalists are killed while investigating corruption cases and alleged mismanagement by States' officials, or by criminal organizations acting with or without the support of States' apparatus.

59. The Special Rapporteur has been following with appreciation and interest efforts concerning the creation of a press emblem, as well as the drafting of an international instrument on the protection of journalists promoted by the Press Emblem Campaign.<sup>l</sup>

60. Likewise, the Special Rapporteur believes that the proposal made by the International Federation of Journalists and the International News Safety Institute for a resolution of the Security Council on the protection of journalists is worth careful consideration.<sup>m</sup>

61. In the Special Rapporteur's opinion, there is a need for international guidelines and rules, which could be drafted with the Commission on Human Rights (or any body succeeding the Commission) and subsequently adopted by the General Assembly, concerning the protection and the security of journalists and media staff. Before that, the Commission should convene a group of experts to prepare a wide-ranging study on the causes and consequences of violence against journalists and legal remedies available.<sup>n</sup>

### III. CONCLUSIONS

62. The Special Rapporteur reiterates that the right to freedom of opinion and expression, and the ancillary rights to freedom of association and assembly, are fundamental and inalienable rights that contribute to the consolidation of democracy and to socio-economic development. Any obstacle to the free circulation of ideas and individuals limits freedom of expression and its positive consequences.

63. Violations of the right to freedom of opinion and expression may occur in all regions and countries, whatever their system, and may have diverse forms and shape. Democracy and freedom of opinion and expression mutually reinforce each other and their joint actions facilitate the promotion of the indivisibility and interdependence of all human rights. Only true democratic regimes can guarantee a fertile ground for a thriving information society and effective remedial action for its protection.

64. In spite of some progress, numerous trends and violations patterns remain substantially active and unchanged. The Special Rapporteur gathered information and examined a number of specific issues in depth: media security and protection, national legislation on defamation, Internet governance and its relation with the right to freedom of expression.

65. The Special Rapporteur notes that, generally speaking, the current international situation has had a negative effect on freedom of opinion and expression, and on freedom of movement especially. While reiterating his total and unconditional condemnation of terrorism, the Special Rapporteur observes that several Governments have enforced preventive anti-terrorism legislation, thus de facto allowing the reintroduction of practices that are prohibited under international human rights law. With regard to information, the arrest and detention of media professionals have increased, together with the closing of media enterprises and censorship of publications and programmes. Also, the right to association, especially trade unionism, has negatively been affected by anti-terrorism measures.

66. The Special Rapporteur would like to pay tribute to the numerous dedicated media professionals who, regardless of poor security conditions, through their work have contributed to offer exhaustive and multifaceted information to the public. They are the best examples of professionalism and ethical conduct, which prevent media to become involved in political speculations and to be instruments of warfare.

67. In the last decade, the rate of killings and other forms of violence against media professionals has been tragically high. In parallel, the request for international legal norms, which would cover security and protection for media professionals, has come back on the agenda after a long period of obliviousness. Such norms would also help in the identification and adequate punishment of perpetrators of crimes against journalists, who often escape from any kind of legal procedure. In addition, States would be compelled to act in accordance with international norms, particularly with regard to crimes committed by law enforcement officials and paramilitary groups.

68. The Special Rapporteur believes that the information society should totally uphold basic human rights principles and not be the mere reflection of the world nowadays. In this connection, respect and promotion are key words. On the one hand, respect for human rights in general, for the human being, respect for women and children, respect for minorities, the elderly, the disabled and other vulnerable groups. On the other hand, the concept of promotion concerns the upgrading of the rights of the above-mentioned categories and any effort towards increasing tolerance and understanding, the end of all forms of discrimination, the struggle against racism and its subsidiaries like ethnic conflicts, mass executions and genocide.

69. The Special Rapporteur believes that guaranteeing freedom of opinion and expression on the Internet, and other new communication tools, is the central challenge for the future. The realization of a global information society, in which the poor can also have access to modern technologies, may represent a leap forward for mankind, opening new paths for human and economic development. Should the information society miss the opportunity to make technologies available globally, the social and economic cleavage between developed and developing countries will become deeper than in the past.

70. In the Special Rapporteur's opinion, bearing in mind the vital role played by the media in creating broad awareness of political, economic and social issues, the fact that many journalists went on trial on defamation charges remains totally unacceptable. Elected officials and authorities officials should be conscious that, because of their role, they attract the attention of the press in the implementation of their functions.<sup>9</sup>

71. The Special Rapporteur notes, on the one hand, that several media outlets use information received from governmental sources on terrorism and anti-terrorist activities, without sufficient control and verification. This behaviour often creates alarm and distress in the population and may ultimately bias judicial proceedings against presumed terrorists. On the other hand, Governments increasingly adopt national security legislation to restrict, partially or totally, freedom of opinion and expression and the right to access to information on the ground that the work of the media will support, either directly or indirectly, terrorist activities.

#### IV. RECOMMENDATIONS

72. **The Special Rapporteur encourages Governments to review existing practices related to all fields of freedom of opinion and expression and to take, whenever necessary, remedial actions in order to ensure conformity to international human rights instruments. In a period of international tension and distress, the Special Rapporteur recommends that Governments consider the protection of freedom of opinion and expression, freedom of the press, political parties, trade unions, students, teachers, social workers, writers and artists as one of the best ways to fight against the spreading violence and to guarantee lasting stability. As appropriate, Governments may also consider the possibility of seeking technical assistance from OHCHR in order to examine the causes of human rights violations.**

73. **The Special Rapporteur invites Governments to consider the opportunity of establishing an independent authority on communications and a media ombudsperson, which could respectively be entrusted with the implementation of relevant laws and regulations and with a mediator's functions with regard to media offences, without having recourse to criminal law. Such an authority could also be entrusted with the task of preventing the phenomenon of media concentration, in particular the creation of a monopoly that could gravely endanger the pluralism of information, affect the independence of media and increase the cost of information. The joint action of the authority on communications and the media ombudsperson could ultimately ensure that the exercise of freedom of opinion and expression through the media is open and accessible to various actors from civil society, local communities and minorities, vulnerable groups, in addition to economic and political groups.**

74. **The Special Rapporteur urges States to take initiatives to counter the decline of the print media in favour of the development of the television-radio sector and of Internet. Print media are a fundamental instrument for the dissemination of ideas and opinions and, at the same time, they educate the reader to develop a critical approach and to analyse the information provided.**



75. The Special Rapporteur urges independent media authorities and media associations to take initiatives to stop the use of forms of expression characterized by discriminatory connotations of ethnic and other vulnerable groups. Hate speech and similar forms of expression are a poison for democracy and its institutions, and they also endanger media credibility. Likewise, action should be taken against indiscriminate use of stereotyping against women, minorities and other vulnerable groups, especially asylum-seekers. Human rights awareness, a sense of personal responsibility and professionalism can help in preventing professional attitudes that do not match with the job's ethic.

76. The Special Rapporteur recommends that Governments take the necessary measures to increase protection of journalists and other media workers, regardless of their professional and political affiliation, from attacks, be they attacks by officials, law-enforcement officers, armed groups or terrorists. Media security remains one of the core elements to guarantee pluralist information in a period marked by polarization of opinion and widespread violence. Governments should also ensure the protection of other categories at risk, such as trade unionists, social workers, students and teachers, and artists. The identification and adequate punishment of the perpetrators of such crimes will contribute to the strengthening of the rule of law and will buttress the confidence of the ordinary citizen in State institutions.

77. The Special Rapporteur recommends that the Commission on Human Rights consider the opportunity of a comprehensive, impartial study on the issue of the security of journalists, in particular in situations of armed conflicts, based on information from and the experiences of Governments, intergovernmental and non-governmental organizations. Such a document, which would include conclusions and recommendations, could provide a basis to discuss draft guidelines for the protection of journalists and other media professionals.

78. The Special Rapporteur vigorously emphasizes that any new intergovernmental body administering, partially or totally, Internet governance must ensure freedom of opinion and expression and promote it throughout the world, in the light of article 19 of the Universal Declaration of Human Rights. It may be appropriate to recall that other international human rights standards, such as the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, the American Convention on Human Rights and the European Convention on Human Rights, contain similar provisions.

79. The Special Rapporteur recommends that all States take measures to guarantee freedom of opinion and expression on the Internet, inter alia, extending to website contributors and bloggers the same protection as other media. Transparency, openness and accountability should be promoted in order to enrich debates and dialogues. Internet providers and website registration with national authorities should not be subject to any specific requirement. Any legal dispute arising from the use of the Web should be dealt with in the country where the website has its origin.

80. **The Special Rapporteur encourages Governments to decriminalize defamation and similar offences, a measure that could also alleviate the workload of the judiciary that in certain countries has taken abnormal proportions. Defamation cases could be solved without recurring to the judiciary, but through the good offices of an independent authority. Under civil law, the amount of fines to be paid should allow the continuation of one's professional activities.**

81. **The Special Rapporteur encourages Governments to ensure that national legislation on the right to freedom of opinion and expression includes the right to access to information, whose implementation appears difficult because of a culture of confidentiality and secrecy that has little to do with the exercise of democracy. In general terms, for the sake of transparency, the termination of judicial procedures should engage the removal of the clauses of confidentiality and secrecy. The use of confidentiality is justified only to protect the right to privacy of individuals, especially of minors. Confidentiality and secrecy may temporarily be justified to protect States' interests and their populations in case of grave attempts to overturn democratic rule, and should subsequently be authorized by a judicial body.**

### Notes

<sup>a</sup> The full text of the statements is available on [www.ohchr.org](http://www.ohchr.org) (section News Releases).

<sup>b</sup> After having examined material submitted by reliable sources, the Special Rapporteur together with other special procedures mandate-holders, intervened on the deterioration of the situation of human rights in Tunisia in connection with the holding of the Summit. Summaries of their action can be found in chapter I of this report under the title "Press releases", and in document E/C.4/2006/55/Add.1.

<sup>c</sup> Freedom of opinion and expression "is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'." European Court of Human Rights, *Handyside v. United Kingdom*, 7 December 1976, Application No. 5493/72, 1 *EHRR* 737, para. 49.

<sup>d</sup> The Convention was opened for signature on 16 December 1952, entered into force on 24 August 1962. The approach promoted by the Convention was to offer to those, notably States, directly affected by reports, which they considered false or distorted the "possibility of ensuring commensurate publicity" for their corrections.

<sup>e</sup> Article 13:

...

2. The exercise of the right provided for in the foregoing paragraph [freedom of opinion and expression] shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others;

Article 14:

1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish.
2. The correction or reply shall not in any case remit other legal liabilities that may have been incurred.
3. For the effective protection of honor and reputation, every publisher, and every newspaper, motion picture, radio, and television company, shall have a person responsible who is not protected by immunities or special privileges.

<sup>f</sup> See for instance the views of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights, *Victor Ivan Majuwana Kankanamge v. Sri Lanka*, Human Rights Committee, eighty-first session, 5-30 July 2004, communication No. 909/2000: Sri Lanka. 26/08/2004. CCPR/C/81/D/909/2000.

<sup>g</sup> See E/CN.4/2001/64, para. 48. Available at [www.ohchr.org](http://www.ohchr.org).

<sup>h</sup> Reporters Without Borders, "Libel and insult laws: What more can be done to decriminalize libel and repeal insult laws?", Recommendations, 25 November 2003.

<sup>i</sup> Article 19, *Defining defamation: Principles on Freedom of Expression and Protection of Reputation*, International Standard Series, July 2000, London.

<sup>j</sup> See [www.newssafety.com](http://www.newssafety.com).

<sup>k</sup> See [www.cpj.org](http://www.cpj.org).

<sup>l</sup> See [www.presseblem.ch](http://www.presseblem.ch).

<sup>m</sup> A draft text of this resolution was adopted by the World Electronic Media Forum, held on 16 November 2005 within the World Summit on the Information Society, and subsequently presented to the Secretary-General.

<sup>n</sup> Article 79 of the First Additional Protocol to the Geneva Conventions of 12 August 1949, as adopted by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts in June 1977, is the most relevant international legal provision regarding the protection of journalists in areas of armed conflicts.

<sup>o</sup> E/CN.4/2000/63, paras. 45-52.

## **ANNEXES**

### **Annex I**

#### **JOINT DECLARATION**

Adopted on 6 December 2004 by Ambeyi Ligabo, Special Rapporteur on the right to freedom of opinion and expression, Miklos Haraszti, the OSCE Representative on freedom of the media, and Eduardo Bertoni, the OAS Special Rapporteur on freedom of expression

#### **On access to information**

The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example, freedom of information acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions:

- Public authorities should be required to publish proactively, even in the absence of a request, a range of information of public interest. Systems should be put in place to increase, over time, the amount of information subject to such routine disclosure;
- Access to information is a citizens' right. As a result, the procedures for accessing information should be simple, rapid and free or low-cost;
- The right of access should be subject to a narrow, carefully tailored system of exceptions to protect overriding public and private interests, including privacy. Exceptions should apply only where there is a risk of substantial harm to the protected interest and where that harm is greater than the overall public interest in having access to the information. The burden should be on the public authority seeking to deny access to show that the information falls within the scope of the system of exceptions;
- Public authorities should be required to meet minimum record management standards. Systems should be put in place to promote higher standards over time;
- The access to information law should, to the extent of any inconsistency, prevail over other legislation;
- Those requesting information should have the possibility to appeal any refusals to disclose to an independent body with full powers to investigate and resolve such complaints;
- National authorities should take active steps to address the culture of secrecy that still prevails in many countries within the public sector. This should include provision for sanctions for those who wilfully obstruct access to information. Steps should also be taken to promote broad public awareness of the access to information law;

- Steps should be taken, including through the allocation of necessary resources and attention, to ensure effective implementation of access to information legislation.

### **On secrecy legislation**

Urgent steps should be taken to review and, as necessary, repeal or amend, legislation restricting access to information to bring it into line with international standards in this area, including as reflected in this Joint Declaration:

- Public authorities and their staff bear sole responsibility for protecting the confidentiality of legitimately secret information under their control. Other individuals, including journalists and civil society representatives, should never be subject to liability for publishing or further disseminating this information, regardless of whether or not it has been leaked to them, unless they committed fraud or another crime to obtain the information. Criminal law provisions that do not restrict liability for the dissemination of State secrets to those who are officially entitled to handle those secrets should be repealed or amended;
- Certain information may legitimately be secret on grounds of national security or protection of other overriding interests. However, secrecy laws should define national security precisely and indicate clearly the criteria which should be used in determining whether or not information can be declared secret, so as to prevent abuse of the label “secret” for purposes of preventing disclosure of information which is in the public interest. Secrecy laws should set out clearly which officials are entitled to classify documents as secret and should also set overall limits on the length of time documents may remain secret. Such laws should be subject to public debate;
- “Whistleblowers” are individuals releasing confidential or secret information although they are under an official or other obligation to maintain confidentiality or secrecy. “Whistleblowers” releasing information on violations of the law, on wrongdoing by public bodies, on a serious threat to health, safety or the environment, or on a breach of human rights or humanitarian law should be protected against legal, administrative or employment-related sanctions if they act in “good faith”.

## **Annex II**

### **FOLLOW-UP TO THE CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THE REPORTS ON THE VISITS OF THE SPECIAL RAPPORTEUR TO SERBIA AND MONTENEGRO (E/CN.4/2005/62/Add.4) AND TO ITALY (E/CN.4/2005/62/Add.5)<sup>a</sup>**

#### **Serbia and Montenegro**

#### **Recommendation 3 (E/CN.4/2005/64/Add.4, para. 74)**

A draft *loi sur le protecteur des citoyens* (law on the ombudsman) has been submitted by the Government for study and adoption. It is the result of cooperation with international experts, the Council of Europe and the OSCE, as well as of a public discussion in which the ombudsman of the Province of Voivodina and several human rights NGOs, as well as other experts, took part.

According to the draft law:

- The ombudsman is elected by the National Assembly on the recommendation of a committee responsible for constitutional matters;
- The ombudsman has four deputies, also elected by the Assembly on the proposal of the ombudsman, for a period of five years;
- The ombudsman addresses human rights violations resulting from an act or omission by the administrative authorities, and monitors the legality of the procedures and work of the administrative authority; he does not monitor the work of the Government in its entirety;
- The ombudsman does not have a mandate to address the work of the courts, unless the complaint concerns an act or omission by the court that manifestly affects the right to legal protection of one of the parties;
- The ombudsman acts at the request of citizens or ex officio, but may not act on anonymous complaints;
- The administrative authority must respond to the requests of the ombudsman and transmit all requested information within 15 to 60 days;
- The ombudsman submits an annual report on his work to the National Assembly, which is published in the *Official Journal*, posted on the ombudsman's website and communicated to the press;
- The ombudsman cooperates with the ombudsman of the Autonomous Province of Voivodina and the counsel to the civil party seeking damages in the relevant local autonomous units in order to exchange information on problems encountered with the administrative authorities.

**Recommendation 4** (ibid., para. 75)

The Law on Free Access to Information of general interest (*Official Journal No. 120/04*) was adopted on 2 November 2004 in accordance with a recommendation of the Council of Europe. This law governs access to information of general interest to the public in the hands of public authorities.

The Law on the modification of the Law on Public Information (*Official Journal No. 61/05*), adopted by the National Assembly on 15 July 2005, deals with press media, coming under the Law on Public Information, which have not begun the process of changing ownership. This fact demonstrates the necessity of moving back time limits by one year so that the closing down of these information outlets will coincide with the time limit for the electronic media and allow privatization to go forward under the best possible conditions (article 1 of the Law on the modifications to the Law on Public Information).

The Law on the modifications and additions to the Law Governing Radio Broadcasting (*Official Journal No. 97/04*) was adopted by the National Assembly on 24 August 2004. These modifications affect the length of the initial mandates of the respective members of the Council of the Agency for Radio Broadcasting, whose creation as an autonomous and independent organization with public responsibilities is governed by the Law Governing Radio Broadcasting (*Official Journal No. 42/02*).

**Recommendation 8** (ibid., para. 79)

After the economic changes in Serbia and Montenegro, a series of measures were taken aimed at the implementation of the new minorities policy, whose basis is the complete integration of minorities in society while safeguarding and developing their particular national characteristics and culture. This will come about through permanent communication between the national authorities and the representatives of all the minority communities and by a partnership with the relevant key organizations and institutions (in particular the OSCE and the Council of Europe).

The basis of the new minorities policy is:

- The development of democratic institutions and respect for the primacy of the law;
- The establishment of a complete set of legal rules concerning the key rights of minorities;
- The creation of a societal atmosphere where the spirit of tolerance and respect for differences will be cultivated;
- A faster pace of development and progress of the country.

In accordance with the Law on the Protection of the Rights and Freedoms of Minorities (*Official Journal No. 11/2002*), national councils of minorities have been formed, the members elected by the minorities themselves. These councils represent the minorities on matters concerning the use of the language of the minorities in education, culture and information.

Article 19.7 of the Law has created a legal basis for the councils to legislate on certain questions in this domain, and requires the State to adopt laws to enable the national councils to exercise competency in areas concerning the safeguard of the identity of the minorities.

### Italy

With specific regard to the provision concerning the resolution of conflict of interest, Law No. 215/2004 (the *Legge Frattini*) does not deal solely with the mass media and information sector, but covers all possible conflicts of interest between government responsibilities and professional and business activities in general. Because of its particular nature, the mass media and information sector is the subject matter of a number of specific provisions in that law (see in particular article 7). These particular provisions do not replace the general rules governing any type of company, but are additional to them. The combined provisions of articles 1, 2 and 3 of the law set out its general scope.

The regulation of conflict-of-interest is completed by setting out the powers, functions and procedures of the independent administrative authorities responsible for control and prevention of such situations, even imposing penalties. As for companies in general, this responsibility lies with the Competition Authority, which was instituted by Law No. 287/1990 (art. 6); as for companies operating in the print press and media sector, the responsibility lies not only with the Competition Authority but also with the Communications Regulatory Authority instituted by Law No. 249/1997.

These authorities have wide-ranging powers to conduct investigations and impose penalties in accordance with current legislation. They can also act at their own initiative, guaranteeing the principle of *audi alteram partem* and the rules of administrative transparency. Their powers do not exclude the competence of the judicial authority or of any other authorities with regard to criminal, civil, administrative or disciplinary offences, and indeed, they are required to report any cases of criminal offences to the judicial authorities. In particular, under article 7, the Communications Regulatory Authority performs the monitoring activity specifically in the mass media sector, imposing fines on companies, should they provide privileged support to the holder of government office.

As for the effectiveness of Law No. 215/2004, it provides that, in the cases of top-down conflict and in the cases of bottom-up conflict, fines can be imposed (art. 6, c.8, art. 7, c.3) on companies and administrative penalties both to the holder of government office (art. 6, c.1) and to the companies (art. 7, c.1 and 3).<sup>b</sup>

In addition to these penalties, the holder of government office can also be subject to political sanctions, resulting from the obligation on the part of the independent authorities to submit their report to the Speakers of both Houses of Parliament. As a result, if government post-holders have acted in pursuit of their personal interests rather than the national interest, this is bound to be public knowledge. This sanction is extremely important, because transparency in the performance of official government duties and the publicizing of such offences are the best possible way to prevent and combat the pursuit of private interests in the course of performing public duties.



Italy wishes also to update the Special Rapporteur about the implementation of the new procedures for the election of the Board of Directors of the State Broadcasting Company, RAI. The new board has been elected following the provisions of Law No. 112/2004 (the Gasparri Law) in such a way to guarantee the full balance between the majority and opposition. This implies a more transparent, fair and correct management of the State Broadcasting Company.

At last, as regards paragraph 91 of the report, where the Special Rapporteur encourages the authorities to reinforce the politics concerning the access to more comprehensible information for migrant populations, Italy wishes to specify that the Territorial Immigration Councils, as established by article 3 of the Law 286/98, in which Representatives of the foreigners' representative organizations sit have been carrying out for a long time useful services within the Territorial Governmental Prefectures-Offices.

Furthermore, the project financed by the European Structural Funds 2000-2006, called "*Civis towards a multiracial society*", has been implemented for approximately three years. The main purpose of the project, realized through the public services offered by radio and television networks, is the diffusion of information finalized to facilitate the integration of migrant people into the Italian society and, at the same time, to offer them the opportunity to take advantage of places where they can show their experiences and needs.

As regards paragraph 92, concerning respect for human rights, the Special Committee against racism and xenophobia, created within the Interior Ministry has the task to protect the correct manifestation of religious and philosophical opinions, supporting the Government and undertaking the most suitable actions for the integration of migrant people into Italian society and, at the same time, offering them the opportunity to take advantage of places where they can show their experiences and needs.

### Notes

<sup>a</sup> The full text of the notes verbales sent by the Governments of Serbia and Montenegro, and Italy are available with the files of the Office of the High Commissioner for Human Rights.

<sup>b</sup> The fine and administrative penalties imposed on media companies are given in Law No. 223 of 1990 (governing the public and private radio and television broadcasting services), Law No. 249 of 1997 (instituting the authority and the telecommunications and radio and television broadcasting systems) and Law No. 28 of 2000 (the so-called "par condicio" law).