Tilting at Windmills? The European Response to Violations of Media Freedom in Russia

Dorothea Schönfeld

Introduction

The gunshot that so suddenly finished the life of the famous journalist and human-rights defender Anna Politkovskaia, on 7 October 2006, was not only a disastrous event for the journalistic community in Russia but, also, an alarming shot for many European organizations. Although her murder was not nearly the first crime committed against journalists in Russia, it resulted in much more media attention and public action than ever before. Next to the activities of NGOs that had been fighting for media freedom for several years, in 2006 governmental organizations were also finally woken up. Immediately after the murder, the European Union (EU), the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE) sent letters of appeal to the Russian government asking for a thorough investigation of the murder and reminding the Russian authorities of their obligation to promote freedom of expression. The response of the Russian authorities is remarkable: instead of mourning the death of a critical journalist and promising to improve the situation of the press in Russia, President Vladimir Putin tried to downplay the importance of Anna Politkovskaia. In a confrontation with German Chancellor Angela Merkel, he said that "the journalist was proving more influential dead than alive".1 Far from accepting European criticism, the Russian government emphasized that the media were free in Russia and that Europe simply had a wrong perception of the current state of affairs.2 More than five years later, the flawed Politkovskaia investigation is still ongoing and no one yet has been convicted of her murder.3 Generally, it seems that the overall situation of the media has even changed for the worse. Are all the actions and letters written by European organizations without effect?

The case of Anna Politkovskaia is not an isolated incident but, rather, a symptom of the current situation of the media in Russia, the measures that European organizations take, and apparent ignorance by the Russian government. In this study, I will examine why European organizations are not more successful in promoting freedom of expression in Russia. It is suggested that one can only


Lauri Mälksoo, ed.
Russia and European Human-Rights Law: The Rise of the Civilizational Argument 91-149
© Koninklijke Brill NV, Leiden, 2014
overcome the current blockade of the European human-rights system when the patterns and the reasons are clearly identified. Therefore, all further actions by European organizations depend on a proper analysis of the problem.

The first part of this analysis is a kind of ‘inventory’; it provides a solid empirical foundation for subsequent speculation. Apparently, there is a deep gap between European ideals of freedom of expression, which have been codified in different national and international treaties, and the current situation of the media in Russia. Fewer and fewer independent media are tolerated by the suppressive state authorities. According to the Committee to Protect Journalists (CPJ), Russia is one of the most dangerous countries in the world for journalists. The main European organizations in charge of promoting human rights in Europe by their very mandate attempt to bridge the gap. In pursuing this aim, they apply different methods, yet predominantly they appeal directly to the Russian government. Although some minor progress has been achieved—most notably in the field of legal reforms initiated by the European Court of Human Rights (ECtHR)—realistically these official declarations, recommendations, and letters of appeal are often mere paperwork with little impact. With some exceptions, European organizations are often seen as tilting at windmills.

In the second part of this work, I will analyze the reasons for the apparent failure of European measures and possible ways out. Can the gap between aspiration and reality be explained by different interpretations of freedom of expression and its limits in the Western and in the Russian context? I will argue that insistence on an ‘ideological’ clash between Europe and Russia is a mere rhetorical trick by the ruling political forces to hide a lack of democratic commitment in Russia and to avoid criticism from the West. Instead of indirectly supporting the Russian idea of a ‘sovereign democracy’, one should rather maintain a universal understanding of freedom of expression and its limits. Otherwise, interference by European organizations in Russian domestic politics would be unjustified. Whereas these ‘ideological’ reasons—or, at least, their historical necessity—can be rejected, ‘practical’ reasons for the insignificant impact of European measures cannot be denied; thus, the inefficiency of European organizations will be treated as a problem of implementation.

The European Standard

Without doubt, freedom of expression is an idea cherished by mankind, if not from the very beginning, then at the latest when philosophers in antiquity first expressed their ideas about the relationship between the individual and society. It is the ideal of a genuine free society where everybody can express their thoughts,

---

4 In this chapter, I will use the term ‘freedom of expression’ instead of ‘freedom of speech’ or ‘freedom of opinion’; terms that are mostly used synonymously. The first term evokes the broadest associations and is used in the relevant legal literature.