



YEREVAN PRESS CLUB

2003: YEAR OF ELECTIONS AND LITIGATIONS

**ANNUAL REPORT OF YEREVAN PRESS CLUB AND
COMMITTEE TO PROTECT FREEDOM OF EXPRESSION**

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JANUARY 2003

ON JANUARY 15 RA Central Election Commission passed a decision on "**Procedure for Pre-Election Promotion in Media by the Candidates for RA Presidency**". The document was criticized by journalistic community for having exceeded the competence of CEC to regulate the private media. The most controversial were the provisions of the Procedure, according to which the presidency candidates had no right to provide the paid and free airtime allocated to them by the broadcasters for the use of other candidates, and the newspapers were obliged to place the announcement of a promotional material of a candidate on the front page. In the opinion of the media experts these restrictions were only legitimate for public and state-owned media. Yerevan Press Club presented its "Comments on Legislative Regulation of Election Campaign Coverage and Related Issues" which analyzed in particular the main deficiencies of the Procedure and their speedy elimination was proposed - with regard to the National Assembly elections due in May, 2003.

During the parliamentary elections the resolution on the Procedure of pre-election promotion in media, passed on March 28, 2003, was a significant positive step as compared with the presidential elections: the main shortcomings highlighted by YPC were eliminated from it. The Procedure was brought into maximal compliance with the legislation of Armenia and the common international norms. Besides, the draft Procedure contained a number of undesirable stipulations, which were withdrawn later, during the registration with the RA Ministry of Justice. At the same time the fact that the Procedure was registered with the Ministry of Justice only on April 21, when the official promotion had already started.

ON JANUARY 27 the letter of the head of the campaign staff of RA presidency candidate Artashes Geghamian (leader of "National Unity" party), the RA National Assembly deputy Alexan Karapetian to the Chairman of the RA Central Election Commission Artak Sagradian was published (copies were also sent to the heads of OSCE and CIS observers' missions, diplomatic missions in the country and Armenian journalists). The letter protested against the fact that Public Television of Armenia, beyond the air time limits, allocated for political advertising, "continues broadcasting programs in which RA presidency candidate Robert Kocharian is endorsed". The campaign staff was also bewildered by the answer of the Chairman of the Council of Public TV and Radio Company Alexan Harutyunian who had said that the free and paid political advertising, provided to presidency candidates and broadcast at 19.00-20.30 was not disseminated via satellite due to the poor quality of the video materials.

The media have also published the communication of Alexan Karapetian, according to which the campaign staff of Artashes Geghamian has decided not to provide information to the Public Television "Hailur" newscast and "Hayots Ashkhar" daily due to their partial attitude to the candidates and the obvious preference for the President in office. On January 29, on the air of Public Television the broadcasting of a 6-minute promotional program of the RA presidency candidate Artashes Geghamian was interrupted and the screen shone off the words: "'Hailur' program is servile". In this manner Artashes Geghamian expressed his protest against the coverage of pre-election promotion by

“Hailur” program.

On February 5 CEC passed a decision on broadcasting political advertising and pre-election promotional materials of presidency candidates by the satellite channel of the Public Television.

ON JANUARY 28 the Parliamentary Assembly of the Council of Europe heard the report of the Committee on Culture, Science and Education on freedom of expression in the media in Europe in 2002. In the section on Armenia the main focus was placed on the defects of the RA broadcast legislation. The PACE report noted that the RA Law "On Television and Radio", passed in October 2000, was found to be not satisfactory by Council of Europe experts and is criticized by media representatives, "in particular in so far as both the National Commission on Television and Radio and the Council of Public TV and Radio Company are directly appointed by the President". The rapporteurs noted that in Resolution 1304 (2002) on the honoring of obligations and commitments by Armenia "the Assembly called on the authorities to amend the broadcast law without delay". The document also tells about the situation formed after the announcement of the broadcast licensing competition results on April 2, 2002, when "A1+" and "Noyan Tapan" TV companies did not receive broadcast licenses. "A new tender for frequencies was announced by the National Commission on Television and Radio on October 15. The 40-day period for submitting bids meant that it was doubtful for either of the TV channels, even if granted a license, to go on air before the presidential elections in February", the report noted. The document quoted the joint statement of Yerevan Press Club and "Internews" non-governmental organization dated April 2, 2002, where the loss of frequencies by "A1+" and "Noyan Tapan" was blamed on the imperfect legislation, as it made it possible for the National Commission on Television and Radio to reshape the broadcasting sphere, ignoring the interests of the acting and established TV companies.

ON JANUARY 30, on the eve of broadcast licensing competitions on five UHF's in Yerevan, "**Dar 21**", "**ARMENAKOB**", "**TV 5**", "**Yerevan**" and "**EV**" **TV companies** filed a suit versus the National Commission on Television and Radio with the RA Commercial Court. The competitions themselves were announced by the National Commission as far back as on October 15, 2002, however, their conductance was delayed due to the litigation of "Noyan Tapan" versus the National Commission (*see details in the Annual Report on Freedom of Speech in 2002 on the YPC web site: www.ypc.am*). After the litigation ended on January 31, the National Commission was to consider the bids of the applicants. Besides the above mentioned companies (broadcasting on the frequencies tendered) applications were submitted by "A1+" and "Noyan Tapan".

The suit proceeded from the refusal of the National Commission to return the bids submitted by the TV companies for the broadcast licensing competitions of October 15, 2002. The request of the broadcasters was based on the fact that the information, contained in the bids, needs revision since the competitions were delayed for over two months. The National Commission refused this request, saying that otherwise it would exceed its authority and violate the law. To ensure the suit, the TV companies petitioned the court to suspend the competitions to ensure the suit. On the same day, January 30, the Commercial Court secured the petition.

Hearings on the case started on February 14.

The situation with the freezing of the competitions caused the strong concern of the journalistic community and, primarily, "A1+" TV company, deprived of air for 10 months by

that time. On February 15 the staff of "A1+" disseminated an appeal to the heads of the foreign embassies active in Armenia requesting a political asylum - "until democratic rule is established in Armenia". "The compulsory 11-month idleness and the picture of the TV environment that has been formed in the absence of "A1+" induce us, the staff of the TV company, to think we have nothing to do in this country. The authorities who appeal to be tolerant were intolerant to the freedom of speech and relevant criticism, could not endure the confrontation with the reality", the address of "A1+" said.

At the second session of February 21 the plaintiffs offered the respondent to sign a reconciliation agreement. In particular, the National Commission was supposed to enable the applicants to take their applications within three days and submit their in modified versions within seven days. On February 24 the National Commission rejected this offer, motivating this by the wish to protect the legitimate interests of other competition members - "A1+" and "Noyan Tapan" who were not included in the reconciliation agreement proposed by the five broadcasters.

On March 14 the suit of the TV companies was refused. On March 31 the TV companies challenged with the Chamber for Civil and Commercial Cases of the RA Court of Cassation the decision of the Commercial Court. At the hearings that started on April 25 the supreme court jurisdiction offered the National Commission to consider the possibilities for reconciliation, taking into account the interests of two other competition participants - "A1+" and "Noyan Tapan". On May 6 this issue was discussed by all parties, however, the agreement was not reached. On May 8 the Court of Cassation ruled that the case be redirected to the Commercial Court again. The representative of the plaintiffs however did not appear at the session on the repeated consideration of the suit on June 25, having notified the Commercial Court of withdrawing the suit a day before. In fact, the court ruling of March 14 that took the side of the National Commission on Television and Radio remained in force.

The need to conduct these competitions as soon as possible - in particular, so that "A1+" has a chance to return on air and cover the presidential and parliamentary elections - was insisted on not only by the public of the country, but also the international organizations, including the Council of Europe, of which Armenia is a member. Formally, it was difficult to find faults with the reasons for the competition suspension. And it was equally difficult to believe the sheer bad luck of "A1". By the time the litigation ended, the presidential and parliamentary elections were over; however, the question of whether the authorities will allow the opposition TV channel to return on air remained rhetoric.

The results of the competitions for the five UHF's in Yerevan were to be announced by the National Commission on Television and Radio on July 18 (*see below*).

ON JANUARY 31 at the RA court of primary jurisdiction of Center and Nork-Marash communities of Yerevan proceedings on the suit of the president of "Armenian traders" LLC Artur Gyurjinian and his son Varuzhan Gyurjinian versus "**Iravunk**" newspaper started. The plaintiff demanded to oblige "Iravunk" to publish a refutation on "I Promise to Tear off the Masks of the Investigative Group" article (*November 15-18, 2002*). The article was based on the investigative materials on the case of attempted assassination of RA National Assembly deputy Melik Gasparian, the charges for which were introduced to Varuzhan Gyurjinian. After the court acquaintance of Varuzhan Gyurjinian, he demanded that the newspaper published a refutation. The edition declined the request, saying the refutation was not argued. On the very first session the court decided to refuse

securing the suit.

FEBRUARY 2003

ON FEBRUARY 4 in Artashat (Ararat region), during a meeting of RA presidency candidate Aram Karapetian with the voters, an assault on the head of his campaign staff, RA National Assembly deputy, former Chief Editor and later - member of the Editorial Board of "Iravunk" newspaper **Hayk Babukhanian** was made. The unknown offenders attempted to interrupt the speech of Hayk Babukhanian, who was opening the meeting, poured insulting remarks and threats to the address of the organizers, called to get away. As the eye witnesses testify, when the crowd started moving forth on Babukhanian, he made several forewarning shots with his organic gun. This, however, did not stop the offenders. During the fight that ensued Babukhanian was injured and got a knife wound in his chest. During the incident two other representatives of the campaign staff of Aram Karapetian were injured, too.

The campaign staff of RA presidency candidate placed the guilt for the organization of the incident on the acting authorities of Armenia, and the occurrence itself was qualified "as a display of state terrorism". The statement noted that numerous representatives of law-and-order bodies were the eye-witnesses of the occurrence; however they took no steps to put an end to the disorder. The campaign staff demanded that everyone to blame for the incident be punished, a number of officials of the country and the region be dismissed. "Otherwise we reserve a right to think the President in office to be a direct participant in the crime", the statement of the staff said.

On the same day, on February 4, RA President Robert Kocharian made statement, which said, in particular: "I strongly condemn and think unacceptable any attempts to make the pre-election campaign a squabble, fight and violence." The President called on all the candidates and their supporters "to continue the civilized struggle, prevent provocation". Robert Kocharian also promised that those responsible for the incident will be punished. The RA Prime Minister Andranik Margarian, the RA National Assembly Speaker Armen Khachatrian, parliamentary groups and factions, presidency candidates and their campaign staffs expressed their indignation at the occurrence, too. On February 5 the RA Central Election Commission made a condemning statement on the incident, announcing that "the law and order bodies in this case did not behave professionally adequate". OSCE/ODIHR observers mission, on their part, voiced strong condemnation of the assault on Hayk Babukhanian, noting that they "will study all the circumstances of the occurrence thoroughly".

On the fact of incident in Artashat RA General Prosecutor's Office instituted criminal proceedings on Article 133 of the RA Criminal Code - "Hindrance of the Implementation of the Elective Right, the Execution of the Authorities of Electoral Commissions and the Individuals, Participating in Elections".

Notably, on the same February 4 in Ararat region, village of Verin Artashat, the pre-elective rally of another presidency candidate, the leader of the National Democratic Union Vazgen Manukian was disrupted. The campaign staff of Vazgen Manukian was induced to cancel the meeting with voters, since the representatives of the village administration announced they cannot assume responsibility for the possible consequences of the rally.

On February 6 the driver of gas office of Artashat Grigor Ohanian came to the General Prosecutor's Office and confessed he had injured Hayk Babukhanian. Grigor Ohanian

received a preventive punishment of arrest, and on February 9 charges were introduced to him on Articles 133 and 222 (public disorder) of RA Criminal Code.

On May 16 the deputy head of the RA Police Hovhannes Varian announced that by the findings of inner investigation of the activities of law enforcement staff during the Artashat incident, 12 policemen received punishment of varying degrees for the unprofessional behavior displayed.

ON FEBRUARY 11 at the session of the National Commission on TV and Radio a decision was passed to fine "**Kentron**" and "**Prometheus**" TV companies for the violations of the electoral legislation made while covering the campaigns of RA presidency candidates. On January 21 "Kentron" TV channel aired a promotional piece of presidency candidate Aram Karapetian without marking it as "political advertising" or "pre-election campaign program", as it is stipulated by the law. On January 23 "Prometheus" TV company made a similar infringement when airing the promotional materials of presidency candidates Stepan Demirchian, Aram Karapetian and Robert Kocharian. Yet on the same day, during the evening newscast of "Lraber" the TV company apologized for this, explaining the misdemeanor by technical problems. Having studied the situation, the National Commission came to the conclusion that both violations were unpremeditated, and minimal sanctions were imposed on "Kentron" and "Prometheus": each of the broadcasters must pay a penalty of 100 minimal wages, amounting to 100,000 drams (about \$170). (The maximum fine is equivalent to 200 minimal wages.)

ON FEBRUARY 19 on the day of the elections of RA President a number of violations of rights of journalists covering the voting process were recorded. Thus, at polling station 122 in Yerevan unknown individuals attacked the representative of "Shant" TV company, taking away the camera and the videotape, where the drop of several ballots by one person was filmed. At the same station the correspondent of "Ayzhm" newspaper Gohar Veziryan was assaulted, who, having found filled in ballots, informed about it the proxy of RA presidency candidate Stepan Demirchian. During the attempted clarification the journalist was attacked by unknown individuals who took away her recorder.

Numerous obstacles were encountered by the representatives of "A1+" TV company in the course of their work. The journalists were ousted from a number of polling stations, often by force, their cameras were taken. The bans to make shootings were mostly explained by the fact that "A1+" has no broadcast license. On February 20 the President of "A1+" TV company Mesrop Movsesian appealed to the Chairman of the RA Central Election Commission Artak Sagradian. The letter said in particular that with the exception of one polling station the "A1+" journalists were everywhere prohibited to shoot the vote count. As the address noted, "the chairmen of the commissions motivated these by some instructions of the CEC Chairman or did not even conceal this was their own initiative".

ON FEBRUARY 20 at the International Press Center "Elections-2003" at the Journalists Union of Armenia **Yerevan Press Club** presented the preliminary results of the YPC monitoring of Armenian media coverage of presidential elections. On March 6 the preliminary results of monitoring the media coverage of the second round of presidential elections were presented.

The final report on the media monitoring of election campaign coverage in the first and the second rounds as well as on the days when the pre-election promotion is prohibited by the law can be viewed at the YPC web-site: ***www.ypc.am in the "Studies" section.***

ON FEBRUARY 23 "Shant" TV company removed from the air "**Ditak**" program, produced by Internews Armenia public organization in cooperation with Armenian TV companies. "Ditak" weekly program has been aired every Sunday evening on "Shant" since 2001. Yet, for the first time it was not aired by "Shant". This issue of "Ditak" was devoted to the presidential elections of February 19, in particular, the violations made during the voting and the vote count. The reports on this were prepared by the TV journalists of a number of TV companies, including "A1+".

ON FEBRUARY 25 "Golos Armenii" newspaper informed that the edition received the complaints of the readers that over the past few days they had been unable to purchase the issue at the newspaper stands. In the opinion of "Golos Armenii", the shortage had been produced artificially. "As the vendors themselves admit in frank conversations with the customers, they simply do not put 'Golos' on sale for political reasons. It had been so far impossible to learn whether it is done on their own initiative or is prompted by someone else's orders", the newspaper wrote.

ON THE EVENING OF FEBRUARY 26, after "Segodnya" newscast, Russian NTV company disappeared from Armenian screens. "Paradise" company rebroadcasting NTV informed that the broadcasts were interrupted due to technical reasons - the failure of a transmitter. However, there was also an opinion that the interruption occurred by the order of Armenian authorities who did not like the coverage of the rally, held by opposition to protest against the violations during the presidential elections, in the evening newscast of "Segodnya". NTV broadcasts in Armenia resumed on March 17.

MARCH 2003

ON MARCH 5, the day of RA presidential elections (second round) again, similarly to the first round on February 19, a number of violations of the rights of journalists covering the voting process were recorded. Thus, on several polling stations the commission members (and sometimes even unknown persons) impeded the work of the journalists of "Ayb-Feh" daily and the homonymous news agency of "A1+" TV company: in particular, they were prohibited to make shootings, to interview the proxies of the opposition candidate, to be present at the vote count. The representative of a precinct electoral committee refused to provide information to the correspondent of "Noyan Tapan" news agency.

Besides, when covering the pre-election campaign for the second round, the TV pieces prepared by the correspondent of "Epikentron" newscast of "Kentron" TV company Nane Ajemian displeased the campaign staff of the incumbent President Robert Kocharian. After the phone call to the TV company Nane Ajemian was offered to take time off till the end of the election campaign. This was stated by the journalist herself in an interview to "Aniv" program produced by Internews Armenia. Previously, since February 24 the broadcasts of "Point of View" program of the same company were stopped. However, its author Gevorg Altunian denied the media allegations that the program was closed at the insistence of the authorities, saying the interruption was due to his illness and his request to "Kentron" management to give him time off.

IN THE EVENING OF MARCH 5 - after the voting on the elections of the RA President - the PR and Information Department of the RA Police announced that the assassination of the Chairman of the Council of the RA Public TV and Radio Company **Tigran Naghdalian** was disclosed. The well-known 36-year-old journalist was killed on December 28, 2002 with a shot at his head as he was leaving the house of his parents in Yerevan.

By the information of the investigative bodies, in November 2002 Leva Harutiunian hired his relative Gegham Shakhbazian to kill Tigran Naghdalian, promising to pay him \$30,000. In early December Shakhbazian addressed his colleague Hovhannes Harutiunian (bearing the nickname of "Aper") to inform him about the arrangement with Leva Harutiunian, as well as gain additional guarantees. Promising to verify the validity of the order, Hovhannes Harutiunian in a few days informed Shakhbazian that the issue had been duly discussed and the order stands. He also said that from now on Shakhbazian should contact him on every organizational matter of the "case", and he will be paid \$50,000 for the order. During the subsequent days Hovhannes Harutiunian gave \$5-6,000 in parts to Shakhbazian for the preparations, promising to pay the remainder after the murder. To commit the crime Shakhbazian gathered a group, comprised of John Harutiunian and the latter's friend Felix Arustamian. A few days later Shakhbazian received from Hovhannes Harutiunian and gave the immediate executors of the crime the illegally purchased guns "Makarov" and "TT" with cartridges. Further Shakhbazian by his personal car with other group members followed Tigran Naghdalian for a few days, determining his route. After which it was decided to kill the journalist as he would be leaving his parents' house. The murder was committed by John Harutiunian, who left the crime site by the car of Shakhbazian who was waiting for him together with Felix Arustamian. On December 29 Hovhannes Harutiunian gave Shakhbazian \$20,000 divided among the group members.

Having pleaded guilty, Hovhannes Harutiunian testified that the main orderer of the assassination of Tigran Naghdalian was his second cousin, resident of Ararat village Armen Sargsian. It also appeared that the other suspect Leva Harutiunian is the father of Sargsian's godchild. Businessman Armen Sargsian himself is the brother of Prime Minister Vazgen Sargsian, killed in a terrorist attack in Armenian Parliament on October 27, 1999 and of Aram Sargsian, the member of Political Council of "Respublika" opposition party.

According to the testimony of Armen Sargsian, given to the bodies of preliminary investigation, he gave Hovhannes Harutiunian \$75,000. He noted that he had lent the first \$25,000 to Harutiunian, to pay the custom duties on the cars. The remaining amount was given to Hovhannes Harutiunian who maintained that the assassins of Tigran Naghdalian threaten to settle accounts with him and the Sargsian family, unless he paid them. Armen Sargsian stated that he paid so as to guarantee the safety of his family.

Another key figure in the assassination was Grigor Petrosian, nicknamed "Mzdo", charged with complicity. Two others - Samvel Abrahamian and Samvel Harutiunian - are charged with concealing a crime and illegal storage of arms. Illegal storage of arms was also incriminated to Armen Manasian. Nshan Muradian and Rafik Melkonian were suspected of concealing their relative Hovhannes Harutiunian when he was announced wanted; Khachik Ahaginian was accused of acting as a messenger between his cousin Hovhannes Harutiunian and his wife.

On July 3 the RA General Prosecutor's Office announced that the case on Tigran Naghdalian's murder was presented to the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan. The court hearings started on July 29 and ended in less than four months. On November 18 the verdict was announced. The guilt of all 13 defendants was recognized proven by court. The punishments defined for them mostly coincided with the demands of the prosecution.

Entrepreneur Armen Sargsian was recognized to be the orderer of the murder with aggravating circumstances for lucrative purposes and because of the professional and public duty of the deceased. Armen Sargsian was sentenced to 15 years' imprisonment.

The same sentence was applied for the killer of the journalist, John Harutiunian. Another accomplice in the murder, Felix Arustamian, was sentenced to 12 years' imprisonment, and the organizer of the crime Gegham Shakhbazian - to 11 years. While the other two key figures of this crime Hovhannes Harutiunian and Grigor Petrosian were also recognized to be accomplices in the murder, their penalties were mildened because of their assistance to the investigation - to 7 years imprisonment each. Samvel Harutiunian and Samvel Abrahamian were sentenced to 1 year's imprisonment for the concealment of the crime and illegal storage of arms. For the concealment of the crime one-year sentences were defined for Leva Harutiunian and Khachik Ahaginian. All the four of them were released from the courtroom due to the expiration of sentence term (a day of preliminary arrest is equal to 1.5 days of imprisonment). Three other defendants - Nshan Muradian and Rafik Melkonian (for the concealment of the crime), as well as Armen Manasian (for the illegal storage of arms), who had a preventive punishment - the obligation of remaining in the place of permanent residence - were sentenced to 1 year's imprisonment conditionally with a two-year deferral.

Meanwhile, on November 24 the Political Council of "Republic" party made a statement, qualifying the conviction of Armen Sargsian as "political account settling" with the family of Vazgen Sargsian. In the opinion of the Political Council of "Republic" party, Armen Sargsian had no reasons to order the murder of Tigran Naghdalian first of all because, being a key witness on the case of terrorist attack on October 27, 1999 in Parliament, he could contribute to the disclosure of important circumstances of this crime by his testimony. Therefore, as the statement signatories believed, the murder of Naghdalian should be considered as an elimination of witnesses on the case of October 27. Thus, as the statements said, the case of Tigran Naghdalian's murder "is not fully disclosed, the true organizers of the crime, possibly along with the direct implementers, have not been held to account, no justice has been made". Aram Sargsian himself said that he intends to challenge the court verdict on his brother with the supreme jurisdiction bodies.

On December 16 the RA Court of Appeals for Criminal and Military cases started the consideration of appeals by Armen Sargsian, John Harutiunian, Felix Arustamian, Gegham Shakhbazian and Grigor Petrosian. On January 20, 2004 the court of secondary jurisdiction partially secured only the appeal of Grigor Petrosian: for the assistance provided to the investigation his term of imprisonment was reduced from seven to five years. The other four sentences were left unchanged. Armen Sargsian, Felix Arustamian and Gegham Shakhbazian challenged this decision with the Chamber for Criminal and Military Cases of the RA Court of Cassation, which did not secure the appeals on February 20, 2004.

The YPC statement disseminated one day after Tigran Naghdalian's murder said that "whatever the motive for this crime is, it is another example of insolent defiance to our society and Armenian journalism, in particular". "This murder had no precedents in the history of independent Armenian journalism. Its disclosure has no precedents either: up to day this has been the first case when those guilty of violence against journalists are determined and punished. At the same time the opinions diverge not only in the society but also within the journalistic profession: some do not doubt the fairness of the punishment, others speak about the political persecution of the unwanted personalities. On our behalf we would express a wish that a tragedy similar to this assassination remain unprecedented and the disclosure of violence towards journalists and media become a norm and not an exception", YPC Weekly Newsletter wrote (*November 14-27, 2003*).

ON MARCH 7 at the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan the hearings of the suit of Central Bank of Armenia versus "**Aravot**" daily started. On February 11, 2003 "Aravot" published the article by Armen Khachatryan "For the Information of Incorruptible Officials", telling about the misconduct of the CB officials. On February 17 CB addressed the newspaper demanding to refute the information as invalid and unverified. In reply, on February 20 a piece titled "CB Gives no Arguments Still" appeared in "Aravot", where the edition insisted on the data previously published. The plaintiff demanded to oblige "Aravot" to publish a refutation of these two pieces. At the next session of March 19 the court secured the petition of the Central Bank to expand the suit: to refute not only the pieces above, but also some other articles. This referred in particular to the publication in "Aravot" titled "How Much Does the Position of the Department Head at the CB Cost?" (*January 21, 2003*). At the session of March 25 the authorized representative of CB announced that the question in the headline of the article damaged the reputation of the bank. In this regard the plaintiff petitioned to present proofs of the legitimacy of a similar question. On its behalf the responding party filed a petition to summon the persons mentioned in the publication as witnesses to the court. Both petitions were secured. On April 1 the testimony of a witness, former counselor at "Credit-Service" bank Tigran Zalinian, one of the information sources for "Aravot" publication, was heard. On the same day the plaintiff and the respondent started to discuss the possibilities for the reconciliation agreement. At the session of April 2 the reconciliation agreement was read out. According to the document, the respondent assumed the commitment of publishing in the coming two issues the text of refutation of articles "How Much Does the Position of the Department Head at the CB Cost?" (*January 21*) and "For the Information of Incorruptible Officials" (*February 11*), as presented by the CB. The plaintiff assumed the obligation not to challenge the other pieces published by the newspaper before April 3. The refutation was published by "Aravot" in the issues of April 3 and 4.

ON MARCH 12, as "**Aravot**" (*March 14*) informed, the edition received the notification of the RA Commercial Court of another suit filed versus the daily - this time by "Ardshinbank". The bank demanded to oblige "Aravot" to pay \$37,000 as compensation for the damage caused by a number of articles published by the newspaper about 10 months before. The subject of publications was the misconduct of the temporary management of "Ardshinbank", appointed by the RA Central Bank. The Chief Editor of "Aravot" Aram Abrahamian qualified these two suits, the above mentioned litigation with Central Bank and that of "Ardshinbank", as an attempt of CB to exert pressure on the daily.

At the court proceedings that started on March 27, "Ardshinbank" announced that according to the bank management, the publications in "Aravot" caused the annulment of its deal with Converse Bank. The newspaper filed a counter-claim - demanding to acknowledge the agreement on the deal of the two banks invalid, as its signing violated the RA Law "On Banks and Banking Activities" and other legal and normative acts. At the session of the Commercial Court on April 10 the reconciliation agreement of "Ardshinbank" and "Aravot" was read, according to which the parties had no more claims to each other.

IN THE EARLY MORNING OF MARCH 14 in Vanadzor (Lori region) the office of **Vanadzor branch of Helsinki Citizens Assembly**, where the editorial board of "Civil Initiative" weekly is also located, was set on fire. The offenders broke the window and set fire in the office. The organization incurred significant damage. On March 15 the HCA Vanadzor branch had been planning to hold "Protect Your Voting Rights" action and to report during the action about the irregularities recorded by the observers of this organization in the presidential elections of 2003. The head of the HCA Vanadzor branch and the Chief Editor of "Civil Initiative" newspaper Artur Sakunts said that despite the

arson, the action will be held in front of the office burnt.

On March 15 during the action Artur Sakunts was arrested. After short hearing he was sentenced by the city court to 10-day administrative arrest for "malicious insubordination" to the representatives of the authorities. The joint statement of South Caucasus branches of HCA, published on March 17, the refusal of the Vanadzor Mayor Samvel Darbinian to issue a permission for holding the action in the center of the city (applied for by the organizers in advance) was qualified as a violation of the constitutional right to peaceful public events. The representatives of HCA called on the international community to join their demand to Armenian authorities "to release Artur Sakunts immediately". "Amnesty International", "Human Rights Watch", International Helsinki Federation for Human Rights voiced their concern on the arrest of the human rights activist. On March 18 Vanadzor was visited by representatives of Armenian HCA Committee, Helsinki Committee of Armenia, and "Human Rights Watch" in South Caucasus, Internews Armenia, Civil Society Development Union, Yerevan Press Club and a group of Yerevan journalists. At the office of HCA Vanadzor branch a "round table" meeting with the participation of local NGOs and journalists was held, where a joint statement to protect Arthur Sakunts was passed. Yerevan delegation also met with the Prosecutor, the Head of the Police of the Lori region and the judge in charge of the human rights activist's case. Yet, the possibility for challenging the court decision considered during these meetings was not applied and the punishment imposed on the human rights activist remained unchanged.

In the early morning of May 5 HCA Vanadzor branch was subjected to the second attack of unknown people. As Artur Sakunts informed, the front door cover was broken and an attempt was made to break the bars on the office window.

ON MARCH 14 Association of Investigative Journalists of Armenia filed a suit versus the RA Ministry of Nature Protection with the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan. The suit was prompted by year-long correspondence with the Ministry to get information on the results of the ecological expertise at the ACP (Armenian Copper Programme) mining enterprise in Alaverdi city of Lori region. The numerous queries of the Association were answered by the Ministry to the effect that the expertise had not been made as ACP company had not submitted the necessary documents. The last letter of November 28, 2002, posing a number of questions on the timeframes and results of expertise, was not answered at all. Because of this the Association of Investigative Journalists filed two demands with the court: to oblige the Ministry of Nature Protection to answer the query of the organization of November 28, 2002 and hold the ecological expertise of ACP within the shortest time span possible and present its results.

Several days before the first session scheduled for April 16, the Ministry sent the court and the plaintiff a written response to the query of November 28, 2002, thus complying with the first part of the suit. In the course of further hearings on the second demand of the plaintiff the Association made a motion of involving ACP company and environment experts into the process as a third party. The court secured the motion. At the last session of May 16 the reconciliation agreement of the parties was publicized. According to the document, ACP commits to submit the documents necessary for the conductance of environmental expertise within six weeks. On its behalf the Ministry commits to conduct the expertise within 80 days since the document submission date and publicize its results.

ON MARCH 18 the law enforcement bodies detained the press photographer of "Arminfo" news agency **Meruzhan Minasian**. Despite the presence of the professional

identification card, the policemen did not allow the journalist make shootings of the protest picket at the RA President's residence to protect Armen Sargsian, arrested on the case of Tigran Naghdalian's assassination. The order keepers struck Meruzhan Minasian with a baton, took his camera and dispatched him to the Police station of Arabkir-Zeitun community of Yerevan. In two hours, after the intervention of "Arminfo" management, Minasian's colleagues and the administration of the RA Police, he was released. According to the journalist, the camera was returned to him undamaged, and the police officers apologized for the misunderstanding.

ON MARCH 18 the readers did not get the ordinary issue of "**Hayastani Communist**" weekly - the print organ of the Communist Party of Armenia. According to the CPA member, RA National Assembly deputy Khoren Sargsian, the print run was requisitioned by strangers from the publishing house directly. The Editor of the newspaper Norik Petrosian and number of party veterans related the disappearance of the print run with pieces published in the issue where the activities of the First Secretary of CPA Central Committee Vladimir Darbinian were criticized.

ON MARCH 26 the draft RA Law "**On Mass Communication**" was submitted to the consideration of the extraordinary session of the RA National Assembly. The first version of the draft, developed by the RA Ministry of Justice and approved by the Government on February 7, 2002, caused a huge protest wave of the media and journalistic associations of the country, was negatively assessed by local and international experts. Further the document was revised (also taking into account some demands of the journalistic community), approved on November 7 and introduced to the Parliament in mid-November, 2002. During the December hearings at the NA the Armenian media and professional organizations, including Yerevan Press Club, once again introduced their proposals on both the content of the draft and the prefer ability of its consideration after the parliamentary elections in May 2003 (*see details in the Annual Report on Freedom of Speech in 2002 at the YPC web site: www.ypc.am*).

Despite this, on March 24 RA President Robert Kocharian signed a decree of summoning an extraordinary parliamentary session the next day, the agenda of which, in addition to other issues, included the first reading of the draft "On Mass Communication". The decree of the President raised another wave of discontent. On March 25 and 26 a number of opposition newspapers (in particular, "Aravot", "Orran", "Haikakan Zhamanak", "Ayzhm", "Iravunk"), similarly to March, 2002, were issued with an appeal: "No to Censorship! Remove the Draft Law 'On Mass Communication' from Circulation!" On March 26 and the subsequent days of the ordinary parliament session (March 31 and April 1) the representatives of "the fourth estate" took part in a demonstration and pickets, organized by National Press Club, by the NA houses. The main demand of the rally participants was the removal of the draft from the agenda and its consideration only after the parliamentary elections on May 25, 2003.

Eventually, the voting on the draft "On Mass Communication" did not occur due to lack of quorum. On April 11 at an extraordinary session of the RA National Assembly voting on the draft was held, however, it did not get the sufficient quantity of votes.

Yerevan Press Club also shared the opinion of those media and professional associations that thought that during the tension of the pre-election situation and with the presence of a number of provisions in the draft that did not meet the international standards, its adoption should be delegated to the new Parliament. Moreover, as the experts of the CE Directorate General of Human Rights (DG II) noted in the comment on the draft of May 17,

2002, "consensus among media professionals on different provisions of this law is more important than a quick adoption". Thus, the Council of Europe realized that the timeframes it had set were not a dogma, if the public had serious objections to the document.

And the journalistic community, including YPC, did have serious objections on a number of clauses of the draft law.

On July 8 the Department for Public Relation of the RA National Assembly announced that it was planned to establish a Public Information Center at the Standing Committee on Science, Education, Culture and Youth Issues, the purpose of which would be to optimize the media and information related legislative framework jointly with journalistic associations and the media of the country.

The main subject of the first working meeting of the Council on September 2 at the RA National Assembly of the members of professional associations and media was the draft Law "On Mass Communication", the consideration of which was to be continued at the autumn parliament session. Yerevan Press Club, the Journalists Union of Armenia, Internews Armenia and the Committee to Protect Freedom of Expression again submitted their proposals on the draft and actively participated in their advancement.

On September 11 a letter of the media legislation working group, established on the initiative of OSCE Office in Yerevan and comprising Yerevan Press Club, too, was sent to the Parliament Committee on Science, Education, Culture and Youth Issues. The letter, signed by the Acting Head of OSCE Office in Yerevan Michael Wygant and leaders of eleven local and international organizations, expressed concern over the draft Law "On Mass Communication", as well as a number of other suggested amendments to RA Law "On Television and Radio" (**see below**). The signatories turned to the Committee with the request to organize in the near future discussions on these issues with the participation of RA National Assembly deputies, authors of draft laws, representatives of international organizations and journalist community.

On September 24 the National Assembly of Armenia passed the draft law "On Mass Communication" in the first hearing. However, the organization named still had several principal objections to a number of provisions of the document. They referred in particular to: the need to change the notion of "mass communication medium" which was given too broad an interpretation (e.g., the definition even included publications with a printing run of 100 copies, regardless of their periodicity, while, in the opinion of the organizations, the law was to regulate only the activities of the entities, professionally engaged in information gathering and dissemination); the unacceptability of media founding by the state administration; the provision for stronger guarantees of the information sources, etc. At the same time, on September 23 the RA NA Speaker Arthur Baghdasarian assured that the period between the first and second hearings of the draft would make a month, and, therefore, the document could be improved taking into account the existing suggestions.

On September 23-24, the days when the draft was being considered and voted, the National Press Club was again picketing the houses of Parliament. Having called on the deputies to block the official draft, the organization demanded to accept for consideration the alternative draft it authored. This document was submitted to the NA leadership a day before voting, and neither the representatives of the journalistic community nor the deputies were familiar with it. The further study with this alternative draft, in the opinion of the media experts, showed that it was inferior to the official document both in terms of legal technique as well as with regard to freedom of speech guarantees.

On October 10 at the meeting with media representatives at the Journalists Union of Armenia Yerevan Press Club, the Journalists Union of Armenia, Internews Armenia and Committee to Protect Freedom of Expression made a joint statement on the situation with the draft "On Mass Communication". Noting the openness of the representatives of the Ministry of Justice and the specialized Parliament Committee, their readiness to accept the proposals of the journalistic community aimed at the improvement of the draft, the "four" reaffirmed its stance: "our organizations will support the draft in case it takes into account all the principal proposals we submitted." At the same time, as the statement noted, "the constructive work is impeded by the incompetent public statements of a number of journalists and politicians that create unhealthy atmosphere and threaten to make the draft a hostage of political intrigues". "The appearance at the last moment of the alternative draft law of the National Press Club is also of little assistance to the effective participation of the journalistic community in the lawmaking. Firstly, this draft was very late and was submitted to the Parliament without any preliminary discussion and coordination with broad circles of journalists. Secondly, as a legal document it is inferior to the official draft in its quality and can hardly be considered more liberal. Thirdly and finally, the draft of the National Press Club gives grounds to all who are inclined to ignore the proposals of the journalistic associations to motivate their behavior by the controversies in our professional environment", the statement of the four journalistic organizations stressed.

On October 14, by the proposal of the above mentioned working group on media legislation, at the Parliament a meeting with the Chairwoman of the Standing Parliament Committee on Science, Education, Culture and Youth Issues Hranush Hakobian was held. As Hranush Hakobian noted, the majority of the proposals on the draft "On Mass Communication", received from journalistic associations and media, would be taken into account in the draft presented for the second hearing. Upon the initiative of Yerevan Press Club and with the participation of the Journalists Union of Armenia, Internews Armenia and the Committee to Protect Freedom of Expression, on October 31, November 1 and 4 in Yerevan, Gyumri (Shirak region) and Vanadzor (Lori region) discussions of the draft "On Mass Communication" and the proposals of the journalistic associations on amending and modifying the document were held. The representatives of national and local media, journalistic organizations that took part in the discussions mostly supported the proposals of the "four", as well as expressed their wishes with regard to the document improvement. On November 6, basing on the discussions held, a package of proposals was sent to the specialized Parliament Committee.

On December 2 the National Assembly passed the draft law "On Mass Communication" in the second hearing, where the majority of the proposals of the four journalistic organizations and some media were included. The comments of the Council of Europe, "Article 19" international organization and the Technical Cooperation Agency of Germany (GTZ) were also taken into account. In particular, principal modifications were introduced into articles that caused the greatest criticism of journalists and experts: with regard to the right to refutation and response, accreditation and liability of journalists, the status of foreign media in Armenia.

In the statement of Yerevan Press Club, released on December 3, the draft law adopted in the second reading was given a generally positive assessment. "The circumstance that the document for the past year and a half has undergone significant positive changes was resulted in both by resolute protest of the journalistic community against a number of unacceptable provisions, restricting freedom of speech in the first variant of the draft law, and the constructive participation of all the parties interested in its improvement in further

stages. It is difficult to point to another case in which representatives of the sphere regulated by relevant legislation have so actively and effectively participated in the protection of their own rights. This precedent inspires certain hopes for real establishment of civil society in Armenia, and we have ground to take pride in the fact that it is journalists that are now making a significant step forward in this direction", the YPC statement said in particular.

On December 13 the RA Law "On Mass Communication" was passed in the third reading and finally. The joint efforts of the local and international public, the constructive cooperation with the executive and legislative powers of the country resulted in a significant liberalization of the Law. "Firstly, the law calls for the abolishment of the media registration institute, previously often used as an obstacle for the opposition press. Secondly, it provides the accountability of the journalist for invalid facts only but not for the opinion expressed. Thirdly, reliable mechanisms for protecting the information sources are provided: the journalist must only disclose them upon the demand of the court, during the consideration of grave or very grave crimes and only when the investigation had exhausted all other means to obtain information necessary for the case. The document had removed the provisions that legally obliged the journalist to verify the validity of the information before publishing it (the officials finally realized that this is a professional, ethical but in no way a legal norm), as well as those setting unequal conditions for foreign media and journalists. All these principles above seem natural for a traditional democracy, yet for the Armenian legal system they proved a huge step forward", Boris Navasardian, YPC President wrote in his article "Going Towards Liberal Legislation Through The Self-Elimination War" (*YPC Weekly Newsletter, December 12-18, 2003*).

ON MARCH 31 the U.S. Department of State released its annual report on human rights practices in different countries of the world in 2002, prepared by the Bureau of Democracy, Human Rights and Labor. In the report on Armenia the situation of freedom of expression and press for the last year was described in almost the same words as in the similar report of the U.S. Department of State for 2001, namely: "while the Government generally respected freedom of speech, there were some limits on freedom of the press"; "publications presented a variety of views and the opposition press regularly criticized government policies and leaders, including the President, on sensitive issues such as the Nagorno-Karabakh peace process and privatization"; "to avoid repetition of the retribution experienced in the past from powerful officials and other individuals, most journalists continued to practice self-censorship, particularly when reporting on major cases of corruption or national security issues"; "journalists remained cautious in their reporting, particularly about proceedings in the courtroom"; there was no censorship or restrictions on reception of satellite television and other foreign media, international newspapers and imported magazines; "the President's office continued to influence state television news coverage significantly", while "private television stations offered independent news coverage of good technical quality", etc.

As to the Public Television of Armenia, as the report for 2002 notes, it "took policy guidance from the Government", "presented mostly factual reporting but avoided editorial commentary or criticism of official actions". By the assessment of the Department of State, the state publishing house and press distribution agency last year operated as commercial enterprises "with no visible government intervention". The print media themselves operated with very restricted resources and none of the newspapers was completely independent from the interests of economic, political groups or individuals. "Because of prevailing economic conditions, total newspaper circulation was small (40,000 copies, by the Yerevan Press Club's estimates, or approximately one copy per 85 persons)", the

report says.

"Opposition parties and politicians generally received adequate news coverage and access to broadcast media", the Department of State believes. "In the run-up to the 2003 presidential and legislative elections, they have continued to have free access to media coverage".

The report also noted the joint work of the Parliament Standing Committee on Science, Education, Culture and Youth Issues, Yerevan Press Club and "Internews" international NGO on the broadcast law. At the same time it was noted that while the amendments to the law passed in 2001 " met many previously expressed concerns by media and human rights groups regarding freedom of the media, it still contains loopholes that could be used to impose greater control on the media by government bodies".

The following incidents are quoted in the report as examples of freedom of expression and press violations: the assassination of the Chairman of Public TV and Radio Council Tigran Naghdalian on December 28 last year; the situation with "A1+" and "Noyan Tapan" TV companies, which were not issued broadcast licenses in April 2002; the grenade explosion in October, 2002 that left the Deputy Director of Caucasus Media Institute Mark Grigorian with shrapnel wounds.

ON MARCH 31 a US organization, Committee to Protect Journalists (CPJ), disseminated the annual worldwide survey "Attacks on the Press" in 2002. The section on Armenia said in particular that in the run-up to presidential elections-2003, RA President Robert Kocharian, who was seeking another term, "muzzled dissenting voices in the press and called for more compliant media coverage of government policies": "As a result, journalists continued to face criminal prosecution, attacks, and censorship. Meanwhile, poor economic conditions drove some members of the press to ignore journalistic standards and sell their skills to the highest bidder - even if that meant being a mouthpiece for a powerful politician or businessman."

The survey also notes that 2002 started with a controversy between the authorities and the journalistic community on the approval of the draft law "On Mass Communication" by the RA Government.

Among the negative incidents that occurred with the Armenian journalists and media last year, CPJ mentions the broadcast licensing competitions that deprived "A1+" and "Noyan Tapan" TV companies of frequencies as well as the legal actions that ensued; the grenade explosion that injured the Deputy Director of Caucasus Media Institute Mark Grigorian, and the assassination of the Chairman of the Public TV and Radio Council of Armenia Tigran Naghdalian that ended the year.

APRIL 2003

APRIL 2 completed a year since "A1+" TV company was not issued a broadcast license. Founded in 1991, "A1+" was the only news TV channel having 24-hour air and actually the only of the electronic media in the capital that openly and consistently opposed the authorities. During the whole this year the TV company attempted to get back on air, participating in a new competition (**see above**) that had all the chances of getting into the Record Book of media-authorities clash, in the nomination of "the most legally frozen". During the whole this year the journalistic community, the public and political forces of the country, reputable international organizations waged struggle to get "A1+" back on the TV

screens.

ON APRIL 29 at the editorial office of "**Chorrord Ishkhanutyun**" newspaper its correspondent **Mher Ghalechian** was beaten. According to journalist himself, the men who had beaten him had previously visited the editorial office due to the piece "Another Mansion Built by Karlos Petrosian's Salary" (*April 25, 2003*). The piece told about the attempt to illegally expand the territory of house under construction, which, as it was reported, was registered as property of a relative of the head of RA National Security Service Karlos Petrosian. One of the visitors said his name was Gegham Petrosian and demanded to publish a refutation, claiming he owned the land and was not related to Karlos Petrosian. As Mher Ghalechian said, while he was not the author of the publication argued, he nevertheless put down the refutation text. The latter was published in the next issue of April 29 and was accompanied by an editorial note, saying that "Chorrord Ishkhanutyun" refrained from comments since the visitors did not submit any documents confirming their words. Despite the publication of the refutation, on April 29 Gegham Petrosian and a man who accompanied him came to the office again, made a brawl with Mher Ghalechian and hit him on his head with an iron chair. The journalist was hospitalized with a diagnosis of brain concussion. On the same day "Chorrord Ishkhanutyun" made a statement, placing the responsibility for the incident on the authorities of the country.

On April 30, Committee to Protect Journalists (CPJ) condemned the assault at Mher Ghalechian. The declaration of CPJ Executive Director Joel Simon contained an appeal to the Armenian authorities to conduct a timely and thorough investigation of this incident and to bring the perpetrators to justice so that journalists would be able to report the news safely and freely. A similar appeal was voiced in the address of the international organization "Reporters Without Borders" (RSF) published on May 2.

On the fact of the assault on "Chorrord Ishkhanutyun" correspondent the police of Center Community of Yerevan instituted criminal proceedings against Gegham Petrosian and Sevak Sevoyan on Article 109 of the RA Criminal Code (intentional infliction of light corporal injuries). Yet some time later the case was dismissed.

ON APRIL 30 "**Chorrord Ishkhanutyun**" newspaper was notified by the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan of a suit filed versus the edition by the First Secretary of the Communist Party of Armenia Vladimir Darbinian. The suit of protecting honor and dignity was prompted by two publications by Lilit Hovhannisian in "Chorrord Ishkhanutyun" - "The Party With a Brain of Bird" (*March 4*) and "The List of Serge and the March 8 of Valod" (*March 25*), where, as the Communist leader stated, libelous and insulting remarks to his address and that of CPA were made. The plaintiff demanded to oblige the newspaper to publish a refutation and suspend the activities of "Chorrord Ishkhanutyun". On May 20 the court ruled to stop the consideration of the suit due to the failure of the plaintiff to be present at the session. The case was thus actually dismissed.

ON APRIL 30 the international human rights organization "Freedom House" published its Annual Survey of Press Freedom Worldwide in 2002. The situation with the media of 193 countries was evaluated using the numerical scale from 1 to 100 based on the following criteria: free (1-30 points), partly free (31-60), not free (61-100) - the lower the score the higher the degree of freedom. The rating for Armenia equaled 65 points, and thus our media was for the first time recognized as not free. The tendency for the deterioration of the situation with the freedom of speech in the country manifested itself already in 2001

when “Freedom House” evaluated Armenian press with 60 points - one point lower than in 2000. Such an obvious decline of the rating in Armenia was the “result of the government’s repeated use of security or criminal libel laws to stifle criticism”, “Freedom House” report noted. As another reason the closing of the country’s leading independent TV company “A1+” was brought forward, which was “often critical of the government” and “did not resume broadcasting in the run-up to presidential and parliamentary elections”. “Freedom House” researchers also noted that most media were seeking “sponsorship from powerful the business or political interests” which “frequently exercise de facto editorial control over content and foster a climate of self-censorship among journalists”.

MAY 2003

IN THE MORNING OF MAY 20 the editorial office of private TV company "**Ankyun+3**" (Alaverdi, Lori region) was visited by the representatives of the Republican Telecommunication Center who sealed the transmitter and the outgoing cable of the TV company. According to the report filed by RTC, the operations of the channel were stopped for a number of reasons: for the failure to ensure the quality of the broadcasts, failure to air state programs, violation of the Governmental Resolution of 1999 (#694, Item 10). In the opinion of "Ankyun+3" head Sos Siradeghian, the interruption of the air was probably due to the broad and sensitive coverage of the recent events in Alaverdi that were related to the RA National Assembly election campaign. Notably, on May 15-19 tax revision was conducted at the editorial office, yet nothing illegitimate was revealed. On May 21 the same representatives of RTC revisited the editorial office and removed the seal from the transmitter. According to the new RTC report, the air of "Ankyun+3" was resumed, however the company had to modify the documentation that enabled its daily two-hour broadcasts on the frequency of Public Television of Armenia in accordance with the existing legislation within 20 days. Sos Siradeghian was unable to explain the true reasons for the incident. In his opinion, the resumption of "Ankyun+3" air was most probably due to the pressure exercised on the local authorities by the President's Office, international and journalistic organizations.

ON MAY 26 at the International Press Center Elections-2003 at the Journalists Union of Armenia **Yerevan Press Club** presented the preliminary report of the YPC monitoring results on the Armenian media coverage of campaigns for RA National Assembly elections, held on May 25, 2003.

The final results of this monitoring can be viewed at YPC web-site: www.ypc.am in "**Studies**" section.

JUNE 2003

ON JUNE 11 National Commission on Television and Radio summed up the broadcast licensing competition announced on May 3. Among the applicants for one of the frequencies, the 25th UHF of Yerevan, were “Armenia” and “A1+” TV companies. By the voting results of the National Commission members the competition bid of “A1+” was rated less than that of “Armenia” TV company. Thus, another attempt by “A1+” to resume broadcasting fell flat.

“A1+” challenged in court the decision of the National Commission to grant a broadcast licensing competition to “Armenia” (**see below**).

ON JUNE 17 the heads of six diplomatic missions active in Armenia, eleven international

organizations and local journalistic associations, including Yerevan Press Club, addressed an open letter to the newly-elected Speaker of the RA National Assembly Arthur Baghdasarian (copies of the letter were sent to the RA President Robert Kocharian, Prime Minister Andranik Margarian, Minister of Justice David Harutiunian, the senior officials of the law-and-order bodies and judicial authority, NA deputies, media). The signatories expressed concern with regard to a number of provisions in the new Criminal Code (adopted by the National Assembly on April 18, 2003 and enforced by the President on 30 April) that "seriously threaten the freedom of speech in Armenia". This referred to Articles 135 and 136 (making libel and insult criminal charges, providing for up to 3 years of imprisonment among other types of punishment) and Article 318 of the Criminal Code (providing a fine from 200-400 minimum salaries to up to 2 years imprisonment for an insult directed towards an official representative in the mass media, in publications or public speech). "Thus, the Criminal Code ensures more protection for public officials than for ordinary citizens (for insult of the latter the punishment envisages a fine of 100-200 minimal salaries)", the letter stressed. Further the letter contained an appeal to decriminalize libel and insult: "Legal solutions should be found in the field of civil, not criminal, law. Or, at least, the Code should not provide for imprisonment."

The NA Chairman Artur Baghdasarian and the first Vice-Speaker Tigran Torosian had controversial feelings with regard to this letter. On June 21 in the interview to Radio Liberty the Vice Speaker qualified it as meddling in the internal affairs of Armenia, which was "incompatible with a diplomatic status" of its signatories. The Vice Speaker specifically blamed one of the initiators of the open letter, the Head of OSCE Office in Yerevan Roy Reeve, who was accused of "repeatedly treating our country disrespectfully". And while the Vice Chairman of the Republican Party of Armenia (a part of the tri-party ruling coalition) Tigran Torosian admitted he was against jailing journalists, he at the same time believed that the civil legislation "often does entail consequences" for publishing untrue media reports. And on June 25 at the meeting of Roy Reeve with speaker Artur Baghdasarian, the latter confirmed the necessity to reform the Criminal Code of the country, in particular, the unacceptability of stipulating different punishments for the insult and libel of officials and average citizens. The Speaker informed that currently the experience of various countries and international structures is studied to ensure the accordance with the Criminal Code in force with the European standards.

On July 1 the response of the Public Relation Department of the RA National Assembly was disseminated, where the legal practice of different countries with regard to regulation of libel and insult was described and gratitude was expressed that the "open address became a pretext for studying the international experience in the sphere".

On July 2 the OSCE Representative on Freedom of the Media Freimut Duve addressed a letter to the RA Minister of Foreign Affairs Vardan Oskanian (a copy was addressed to the speaker of the Parliament) saying that the OSCE representative was familiar with the findings of the NA RA experts that "the criminal libel is still in existence in several OSCE participating countries", however, "it is rarely if ever used". The existence of these provisions in the legislation, the letter said, had over the years hampered the work of the media, putting undue pressure on journalists who investigate such issues as corruption, especially involving government officials. They were also often used to protect high-ranking civil servants and politicians from criticism. "That is why I insist on complete decriminalization of libel in all the OSCE participating states, be it to the East or West of Vienna. Armenia is not an exception", Freimut Duve announced.

Freimut Duve, in his Regular Report on the freedom of the media in the region, presented

to the OSCE Permanent Council on July 31, noted that he addressed a letter to the Armenian authorities supporting the amendments to the RA Criminal Code, which had not been answered yet.

This question remains open to this day.

ON JUNE 26 the founder of "A1+" TV "Meltex" LLC filed a suit with the RA Commercial Court versus "Armenia" TV for the information disseminated, which was false and was blackening the business reputation of "A1+". The suit based on the statement of Bagrat Sarkissyan, the President of "Armenia" TV company, on the air of "Zham" newscast on June 9. The head of "Armenia" hinted in particular at the "secret political funding" received by "A1+" and informed that the representatives of "Gafeschian" charity fund, who visited "A1+" with a group of financial and technical experts, had been unpleasantly surprised at the scarcity of the resource base of the TV company. As the suit application, signed by the head of "Meltex" and director of "A1+" Mesrop Movsesian, noted, the experts of "Gafeschian" fund had never visited the TV company and had never studied its financial and technical facilities. And "A1+" itself had never got financial assistance for development from third persons and did not use the secret political funding Bagrat Sarkissyan spoke about. "A1+" demanded to oblige "Armenia" in court to publish a refutation text, without comments and all the newscasts of "Zham" for one day.

The proceedings on the case started on July 21 and one month later, at the session of August 21 a reconciliation agreement was signed: the parties refused from any claims to each other and third parties.

JULY 2003

ON JULY 11 at the session of the National Commission on Television and Radio a written warning for advertising of cigarettes on the air was issued to "AR" and "Paradise" TV companies (the latter rebroadcasts Russian NTV). According to the amendment to the RA Law "On Advertising", passed on June 26, 2002, since January 1, 2003 in Armenia the advertising of strong alcoholic drinks (except cognac) and tobacco products had been prohibited in the electronic media. Certain restrictions were also stipulated for print media. The TV companies made a written obligation not to violate the law in future.

ON JULY 18 the National Commission on Television and Radio announced the results of broadcast licensing competition on five UHF's in Yerevan. Among the bidders in these competitions, announced as far back as on October 15, 2002 and constantly delayed due to the endless litigations (**see above**) were also "A1+" and "Noyan Tapan" TV companies. By the voting results of the National Commission members "A1+" lost again - for each of the frequencies it applied for. So did "Noyan Tapan" - for one frequency.

The refusal of the National Commission on Television and Radio to grant broadcast licenses to "A1+" and "Noyan Tapan" caused a wave of indignation among the Armenian and international public. Criticism to the address of the National Commission was voiced by both the representatives of ruling coalition, and the opposition political forces of Armenia. In the address of the OSCE Representative on Freedom of the Media Freimut Duve, released on July 21, the absence of "A1+" and "Noyan Tapan" was qualified as a proof of restricted freedom of expression in Armenia. On July 23 the Secretary General of the Council of Europe Walter Schwimmer called the decision of the National Commission "another example of insufficient respect for pluralism in Armenia which has been troubling us for several months - in particular during the recent election campaigns". Reminding the

Armenian authorities of their promises to give the independent broadcasters an opportunity "to become a part of the audiovisual landscaper in Armenia", Walter Schwimmer stressed that the time had come to accept the expression of a broader range of opinions if Armenia wanted to become further integrated into Europe. On July 25 Ambassador Daan Everts, the Personal Representative of the OSCE Chairman-in-Office, Netherlands Foreign Minister Jaap de Hoop Scheffer, addressed a letter to the Armenian Foreign Minister Vartan Oskanian on behalf of the Netherlands Chairmanship of OSCE, according to which the absence of "A1+" and "Noyan Tapan" from the air "raises concern about the pluralistic nature of the broadcast media in Armenia". The situation of "A1+" and "Noyan Tapan" was also presented on July 31 in the Regular Report of the OSCE Representative on Freedom of the Media Freimut Duve to the OSCE Permanent Council.

"A1+" TV companies challenged in court the decisions of the National Commission on licensing three frequencies for which the TV company had applied (*see below*).

ON JULY 31 at the session of the National Commission on Television and Radio a written warning was made to "ALM" TV channel with regard to the violations of the RA Law "On Advertising". The National Commission obliged "ALM" to stop the advertising of strong alcoholic beverages on air.

SEPTEMBER 2003

ON SEPTEMBER 8 the Progress Report of the Monitoring Group (Group Ago) on the honoring of commitments to the Council of Europe by Armenia and Azerbaijan was published. The Report was submitted to the Parliamentary Assembly of the Council of Europe. In its conclusion on Armenia and Azerbaijan Group Ago expressed concern over the lack of progress on a number of sensitive issues, which raised a serious problem with regard to honoring of commitments to the CE by the two countries. In the opinion of the representatives of the CE Committee of Ministers, "independence of the legislative, the judiciary and the media appears to be perceived as threat to power which lies mainly - in the both countries - in the hands of respective presidents". This was confirmed by the fact that in these fundamental fields legislation had either not been adopted, or had been amended prior to being passed, with the result that the Council of Europe's recommendations on sensitive points were not taken into account.

In the Armenia section of the Report the importance of finding some pragmatic solutions in respect of several commitments where progress was delayed pending the referendum on constitutional amendments is noted. These were in particular the adoption of law on mass communication and of amendments in the RA Law "On Television and Radio". The discontent of Group Ago was caused by the provisions for membership of the radio and television supervisory boards. Both the draft law on mass communication and the draft amendments to the broadcast law, as Monitoring Group believed, must be sent to the Council of Europe for an expert opinion and once again interim measures must be put in place. Besides, as it was emphasized in the Report, a number of other old problems exist, which must now be resolved. In the media sphere these are the allocation of frequencies to independent TV companies, particularly "A1+" and "Noyan Tapan", and the decriminalization of libel and insult. The Report describes the situation with the broadcast licensing competition which was to be held before the elections, was constantly postponed and was finally held, however, by the decision of the National Commission on Television and Radio of July 18 the bids of "A1+" and "Noyan Tapan" were rejected again. As to the provisions of the RA Criminal Code, stipulating responsibility of libel and insult in the media, they, as the Report noted, were criticized by the OSCE and the Council of Europe

and caused serious concern of journalists. "The Group did not receive a satisfactory answer on this point", the representatives of the CE Committee of Ministers noted.

ON SEPTEMBER 9 Internews Armenia addressed a letter to the RA National Assembly, in which it called to withdraw from the autumn session the draft law on introducing amendments into the Laws **"On Television and Radio"** and **"Statutes of the National Commission on Television and Radio"**. The letter, addressed to the Chairwoman of the Standing Committee on Science, Education, Culture and Youth Issues, Hranush Hakobian (copies were sent to the heads of three parliamentary factions supporting the draft - Republican Party of Armenia, "Orinats Yerkir" and ARF "Dashnaksutiun"), stated that although the current broadcast law was in acute need of radical improvement, the proposed amendments not only failed to fill in serious gaps in the law but, moreover, they had a bad impact on a number of its main provisions. On September 11 another letter signed by the working group on media legislation was addressed to the specialized Committee, where concern was expressed over the proposed amendments to the broadcast law.

Some provisions of the document caused special criticism of the journalistic community. In particular, the simplification of the decision making procedure by the National Commission on Television and Radio with regard to granting broadcast licenses was negatively assessed - it stipulated the decision to be valid not by the majority of votes of the Commission members (as stipulated by the current provision) but by the majority of votes of the members present at the session, in other words, three votes would be sufficient to decide on the fate of a private broadcaster (the membership of that regulating body makes up 9 people). Secondly, the amendment referring to the evaluation by the National Commission, in the process of licensing, of the bidder's financial resources on the principle "satisfactory, non-satisfactory", which did not even provide for the criteria of the assessment, was also questioned. The third point of criticism was the retirement of the compositions of the National Commission and the Council of the Public TV and Radio Company in case the clauses of the broadcast law on the formation of these bodies change. And finally, the expansion of the terms for license revoking - if Article 24 of the broadcast law was rudely violated (dissemination of materials of libeling, pornographic nature, publication of state secret, etc.) - was considered to be an initial restriction, incompatible with the principle of freedom of speech, while the accountability for such violations is provided for by the norms of civil and criminal law.

On October 14 the working group on media legislation submitted to the Parliament a package of proposals on the improvement of the draft law on introducing amendments to the Law "On Television and Radio" and the broadcast law in general. At the meeting at the National Assembly the NA representatives assured that the objections and proposals of Internews Armenia and Yerevan Press Club, supported by the working group on media legislation, would be studied.

As the local and foreign experts thought, the amendments were first to be introduced to the provisions of the Law "On Television and Radio", which define the procedure of forming the broadcast regulating bodies. In particular, the guarantees of their independence were to be strengthened. Yet the amendment draft did not in anyway touch upon this issue.

However, as the further developments showed, the proposal package presented was ignored by the authors of amendments to the broadcast law (six NA deputies).

Discussions on the draft were held at the Parliament session of October 21 and 22. The document was presented by one of its authors, member of Republican Party faction Vazgen Khachikian. NA Vice Speaker Tigran Torosian answering the opponents of the draft cited that the majority of the amendments were made in accordance with the recommendations of the Council of Europe experts. Yet, as the proposals of the working group on media legislation noted, when making amendments all the recommendations of the CE experts must be taken into account. Meanwhile, the draft in question covered only some, mostly secondary points of the CE evaluation. Being taken out of the context, these points would aggravate the law instead of improving. In the opinion of the member of the parliament faction of the opposition "Justice" bloc Shavarsh Kocharian, the draft submitted for the NA consideration actually legalizes the violations of the National Commission on Television and Radio.

On November 4, despite the negative assessment of the journalistic community and the parliament opposition, the draft of the amendments to the broadcast law was passed in the first hearing.

On November 5 the Parliament passed, also in the first hearing, the draft amendments to "Statutes of the National Commission on Television and Radio". The document introduced time restrictions on the broadcasts of horror movies, films and programs of erotic nature: their airing is permitted from 24.00 till 6.00. A penalty for the violation of this provision is stipulated, amounting to 120 minimum salaries, in case of a repeated violation within a year the penalty will make 200 minimal salaries.

On December 3 the drafts on introducing amendments to the RA Law "On Television and Radio" and "Statutes of the National Commission on Television and Radio" were approved in the second hearing and finally. The draft amendments at that point had two more articles that were included after the first reading. According to proposed amendments, the selection of the vacancy in the National Commission on Television and Radio, and the Council of Public TV and Radio Company will be implemented on competitive basis. However, the candidate will still be nominated by the President of the country.

On the same day of December 3, one more draft law on the introduction of amendments and additions in RA Law "On Television and Radio" was adopted in the second reading and finally. Initiated by National Assembly deputies Victor Dallakian and Artak Arakelian and ratified in the first reading on November 5, the document stipulated daily broadcasting on the Public Television of at least one child and one news program with a deaf-and-dumb translation or subtitles in the Armenian language for impaired viewers.

ON SEPTEMBER 23 the National Assembly of Armenia passed in the third hearing and finally the **RA Law "On Freedom of Information"**, voting unanimously for the bill. The draft law was initiated by the Yerevan Press Club in as far back as 2000, was further worked on by the RA National Assembly deputies Viktor Dallakian and Vardan Bostanjan. After the draft was passed in the first hearing, in October 2002, in its further improvement, apart from the members of the two Parliament Committees (on state and legal issues and on science, education, culture and youth issues), experts of YPC, Freedom of Information Center of the Association of Investigative Journalists of Armenia, the Civil Society Development Union, Internews Armenia took part. The majority of the 62 proposals submitted both by these organizations and the RA Government were approved during the second reading of the document, on March 18, 2003.

By the second reading a number of shortcomings present after the adoption in the first

hearing were eliminated. Thus, non-governmental organizations as a regulation object for the law were removed from the draft. Instead the concept of "organizations of public significance" is introduced, which are defined as "non-state organizations, having a monopolistic or dominating position on the commodity market, as well as those supplying services in the sphere of health care, sports, education, culture, social, transportation and communications, utilities". These organizations are to provide information (other than that constituting commercial secret) by the same procedure that budget institutions, state structures and local self-administration bodies do.

In items 3, 4 of Article 7 the data subject to mandatory and periodical publication are listed. They also specify that the changes in these data are to be published within 10 days. Since preparatory work was needed for the realization of these items, they would be enacted since January 1, 2004.

Besides, in the second edition of the draft, the grounds for refusal to provide information were presented more distinctly and the cases when the information cannot be refused were listed. The terms for the oral information query and response to it were also stipulated. The answer to the written query is to be provided within five days. In some cases charges for the information provision are defined, which, however, cannot exceed the expenses associated with the information provision. No fees can be charged if the volume of information provided does not exceed 10 typewritten pages or if it is sent via e-mail. The draft also defines the concept of "entity responsible for ensuring the freedom of information".

In the opinion of the experts, the adopted Law "On Freedom of Information" is overall progressive and ensures the realization of a right to access and receive information. It should also be noted that the work on the draft was one of the rare examples of coordinated and effective cooperation of NGOs and deputies.

The Law "On Freedom of Information" was signed by the RA President Robert Kocharian on October 22, 2003.

IN THE EARLY MORNING OF SEPTEMBER 27 in Yerevan, the Chief Editor of "Or" newspaper *Gayaneh Mukoyan* and her husband, Director of "Or" Rafael Hovakimian were assaulted. Near their house, Hovakimian's vehicle was blocked by a Niva car, out of which four unknown men in masks emerged. Introducing himself as a representative of law-and-order bodies, one of the men demanded that Rafael Hovakimian leave the car. In reply to his request to give more details as to his name and position Hovakimian was dragged out of the car and hit on the head. Gayaneh Mukoyan attempted to get in touch with the police by her mobile phone, however she too was dragged out of the car and received several severe strikes in the face, her telephone being snatched out. The Chief Editor of "Or" was hospitalized with the diagnosis of a broken nose and a slight concussion of the brain and had to undergo a surgery.

On October 3 the staff of "Or" made a statement, assessing the incident as implementation of a special order provoked by the professional activity of "Or" Chief Editor and in particular by the latest publications of the newspaper. According to the editorial office, the criminal proceedings started on the article "public disorder with infliction of physical injury" (Article 258, Part 3 of RA Criminal Code) is to be reconsidered according to Article 113 Part 2 ("premeditated infliction of physical injury of medium degree"). In relation to the incident, Chairman of Human Rights Commission at RA President, Hovhannes Asryan turned to General Prosecutor of the country, Aram Tamazian with the request to transfer the case

from RA Police jurisdiction to General Prosecutor's Office. The assault at "Or" administration, according to Chairman of the Commission, was not just a case of public disorder but an encroachment on freedom of expression.

As of end 2003 the guilty of the assault were not disclosed. And "Or" newspaper that stopped issuing right after the incident with its head did not resume its activities.

ON SEPTEMBER 29, founder of "A1+" TV "Meltex" LLC applied to the RA Commercial Court with the suit against the National Commission on Television and Radio. The main claim of the plaintiff was to oblige the National Commission to provide sufficient ground, why by voting results of July 18, 2003, "A1+" founder was refused a broadcast license. The competition for five UHF's of Yerevan was announced on October 15, 2002, however it was constantly postponed because of the prolonged trials related to it, and was finally conducted only in July 2003. The bid of the TV company, applying for three out of the five frequencies presented at the competition, was evaluated lower than the competing bids of "A1+" rivals (**see above**). Later "A1+" founder filed second suit of similar nature. In this case, the suit was related to another broadcast licensing competition the results of which were summed up on June 11. Here also "A1+" bid was assessed by the National Commission lower than that of its rival, "Armenia" TV company (**see above**). Both suits were united into one legal action.

Hearing of the case started on November 3 and continued in 2004.

ON SEPTEMBER 29 four journalists made a petition to judge Samvel Uzunian, at chair of the processes on the case of terrorist attack in the National Assembly of Armenia committed on October 27, 1999 (during which 8 senior officials of the country were shot dead, including the Speaker of the Parliament and the Prime Minister). Applicants Ruzan Khachatryan, Anna Israelian, Narineh Dilbarian and Alexander Melkumian demanded to be recognized an injured party in the case of October 27. The journalists motivated their address by the fact that the during the tragic events they, too, incurred both material and moral damage, and it is unclear why some of the deputies who only spent a few minutes in the session room were recognized to be an injured party, while the representatives of "the fourth estate" who stayed there much longer were only summoned as witnesses. On October 9 at the court session on the case of the terrorist attack the petition of the journalists was declined on the motivation that the terrorist attack was directed against the NA deputies and the representatives of the power, and not against the journalists.

OCTOBER 2003

ON OCTOBER 7 in Warsaw at the OSCE Human Dimension Implementation Meeting the speech of the member of U.S. delegation Ronald McNamara was presented, as released by Bureau of International Information Programs of U.S. Department of State. In his speech Ronald McNamara expressed U.S. concern that freedom of expression, the media and information was deteriorating in the OSCE region. The speaker cited criminal defamation laws, the abolition of which had long been sought by the USA throughout the OSCE region, if not worldwide, as particularly pernicious in their effects.

Ronald McNamara noted that the United States commended the joint declaration of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the Special Rapporteur of Organization of American States on Freedom of Expression, adopted in December 2002. It says, in particular: "Criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation

laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.”

Stressing that the USA welcome the step Romania made to implement this principle in practice, the speaker said: “We join the OSCE Office in Yerevan in urging Armenia to follow the example being set by Romania and repeal its criminal defamation and insult laws.” The need for the decriminalization of libel and insult and their transfer into the civil law field was also stressed in the letter to the Speaker of the National Assembly Artur Baghdasarian of June 17, signed by the heads of 6 diplomatic missions operating in Armenia, 11 international organizations and journalistic associations, including Yerevan Press Club (*see above*).

Further Ronald McNamara said that the USA would have to agree with the statement of the OSCE Representative on Freedom of the Media Freimut Duve that the situation of free media in the OSCE region had deteriorated in recent years - “despite some positive efforts and the vast resources and energy that have been spent to develop free media and protect journalists”. The speaker cited the examples of pressure on the freedom of speech and media in Belarus, Ukraine, Turkey and the countries of Central Asia to illustrate this point. As compared to these countries, freedom of the media is more highly developed in the South Caucasus, but, as the statement ran, concerns remain. In particular, in Georgia against the backdrop of the upcoming November parliamentary election the official pressure on the independent “Rustavi-2” TV station was renewed and in Azerbaijan harassment of the media and intimidation of journalists continued.

With regard to Armenia Ronald McNamara noted: “In Armenia, ‘A1+’ and ‘Noyan Tapan’ remain off the air, after failed efforts to win tenders for broadcast licenses that were widely seen as politically driven.”

ON OCTOBER 13 the National Commission on Television and Radio announced the results of broadcast licensing competitions, announced on September 1. Among the applicants for the 3rd VHF in Yerevan were “A1+” and “Ar” TV company, aired on the channel, the 63rd UHF of Yerevan was claimed again by “A1+”, “Noyan Tapan” and its “owner” “Cinemax”. According to the voting results of the National Commission the bids of “A1+” and “Noyan Tapan” got lower scores than those of their rivals.

On November 24 at the press-conference of the Director of “A1+” TV company Mesrop Movsesian and the Chairman of International Union of Lawyers Tigran Ter-Esayan, representing “A1+” in court disputes, it was announced that “A1+” founder, “Meltex” LLC, intends to file a suit versus the National Commission on Television and Radio soon. “Meltex” demanded to annul the decision of the National Commission on granting “Cinemax” LLC a license to broadcast on the 63rd UHF of Yerevan. It should be noted that “Cinemax”, broadcasting on this frequency earlier, started the complete broadcasting of “EuroNews” TV channel and the self-produced programs of “ArmNews” TV company since March, 2003.

According to the head of “A1+” and the lawyer, the application that “Cinemax” submitted to the competition contained false and distorted information, however, this circumstance was not taken into account by the National Commission on Television and Radio. Thus, the application described the programming policy, the technical equipment and the personnel of “ArmNews” TV company. Yet, as the representatives of “A1+” maintained, as of October 2, 2003 “ArmNews” TV company was not officially registered as a mass communication medium, and the only medium, entitled to broadcast on the 63rd UHF till the

announcement of the voting results on October 13, was “Cinemax” TV editorial office, registered by its founder, “Cinemax” LLC, on January 31, 2000. In other words, “ArmNews” TV company aired on the frequency of “Cinemax” had no legal affiliation with the bidder in the broadcast licensing competition, and therefore, “Cinemax” could not quote its capacities to justify its application. The application package of “Cinemax” had another item that “A1+” representatives were alarmed with: the abstract from the contract between “ArmNews” TV company and “EuroNews” channel for the re-broadcasting of the latter’s programs on the 63rd UHF. As noted above, “ArmNews” had no legal authority to use this frequency, and therefore was not entitled to signing a rebroadcasting contract. Moreover, this abstract was submitted in Armenian language, was sealed by a private entrepreneur from Armavir region Satenik Hunanian and had a note: “The translator bears responsibility only for truthful translation from English language into Armenian and not for the validity of the facts narrated in the document”. All this renders the whole contract questionable. The leader of “A1+” TV company noted also that since March this year, “Cinemax”, being the owner of the 63rd UHF, actually violated Article 23 of the RA Law “On Television and Radio” and Article 20 of the RA Law “On Press and Other Media Outlets”, not complying with their provisions calling for daily announcement of its name, TV programme schedule, other company information on the air. Instead, only the names and the logotypes of “ArmNews” and “EuroNews” were aired.

Proceeding from this all, the representatives of “A1+” TV company announced that “A1+” TV company was refused a license on October 13 by the resolution of the National Commission on Television and Radio on illegal grounds, violating Articles 50 and 47 of the RA Law “On Television and Radio” and a number of other norms.

On December 1 the founder of "A1+", “Meltex” LLC, filed a suit to RA Commercial Court versus the National Commission on Television and Radio with the claim to annul the decision of the National Commission about granting to “Cinemax” LLC broadcast licensing. On December 9, Commercial Court notified the founder of "A1+" that its suit versus the National Commission had not been put into execution. The court brought artificial and even absurd reasons as substantiation for rejecting the suit. For instance, it relies on the fact that the suit documents do not entitle “Meltex” President, Mesrop Movsesian to represent his own company. One needs to note that for the last year and a half “Meltex” has been involved in several trials, and no claims of similar kind were put to its previous suits. It comes to prove one more time that in each case new pretexts were used for ignoring the rights of “A1+” TV company.

Meanwhile, “A1+” administration declared that it intended to file another suit to Commercial Court. On December 22 the new suit was accepted for consideration. The hearing of this case started in 2004.

ON OCTOBER 14 at the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan the hearing of the suit of Chief Editor and director of “Armenian Encyclopedia” publishing house Hovhannes Ayvazian versus the correspondent of “**Aravot**” newspaper **Satik Seyranian** “on the refutation of information discrediting the honor and dignity of the citizen in the media” started. The reason for the litigation was the article of Satik Seyranian “When the Institution Has No Master”, published in two issues of “Aravot” daily (*September 9 and 10, 2003*). The article told in particular about the sale of the building of “Armenian Encyclopedia” to one of Armenian banks, and in the opinion of the author the fault here rested not only with the government but also the management of the publishing house. The story also told about the waste of the assets of the publishing house by its head. On September 13 “Aravot” published the letter by Hovhannes Ayvazian,

where the Chief Editor and Director of “Armenian Encyclopedia” called all the facts cited in the article fictitious and demanded the author to make a public apology, otherwise “the discussion will continue in court”. In the comment to the letter Satik Seyranian wrote that not only she was not going to apologize to the head of the publishing house but was also ready to present additional facts.

At the court session Hovhannes Ayvazian demanded that the journalist present these very additional facts to the court. This demand exceeded the suit and the court ruled to reject the claim completely.

ON OCTOBER 20 the international organization “Reporters Without Borders” (RSF) published the second world press freedom ranking. The RSF ranking took account of press freedom events between September 1, 2002 and September 1, 2003, and was compiled by surveying people, “who have a deep knowledge of the state of press freedom in a country or a number of countries”. The press freedom in each country was assessed by the respondents with a questionnaire with 53 criteria: ranging from various forms of repression of journalists and media up to legal restrictions, as well as the attitude of the authorities to state-owned media and international press. It also took account of the main obstacles to the free flow of information on the Internet. Unlike the first similar research, covering 139 countries, this time the geography expanded, including all the post-soviet countries. The example of media freedom, in the opinion of RSF, in 2003 can be set by Finland, taking the first line in the ranking. Its antipode was the North Korea (166). Among the three countries of South Caucasus Armenia (90) was almost in the middle: the freedom of Armenian media was 17 points less than that of Georgian media (73) and 23 points greater than that of Azerbaijani ones (113).

NOVEMBER 2003

ON NOVEMBER 4 John Hughes, the Chief Editor of online weekly “**ArmeniaNow**” and the Director of “New Time” Journalism Training Center, addressed a letter to the RA Military Prosecutor Gagik Jangirian (the copies were sent to the heads of the International Union of Lawyers, Yerevan Press Club, Journalists Union of Armenia, the Public Affairs Department of the US Embassy in RA and the Internews Armenia). The letter told that after the publication of “The Price of Privilege?: Soldiers murders may be connected to payoffs and the common system of surviving the Armenian Army” (“*ArmeniaNow*”, August 15, 2003), narrating about the murder of privates Levon and Hamlet Baghdasarians and their friend, sergeant Arman Davtian, committed on August 6 in Vanadzor, its author Zhanna Alexanian for over a month had been receiving telephone threats from the father of the brothers killed Sahak Baghdasarian. The letter said that he accused the journalist of “defending the murderer”. In the opinion of John Hughes, the reason for dissatisfaction of Sahak Baghdasarian was the part of the article telling that the Baghdasarian family is known for “its business affiliations that include distribution of petrol”. In the address to the Military Prosecutor of the country the editorial staff of the weekly expressed its concern over the threats to Zhanna Alexanian: “We take these threats seriously and we hope that your agency will take appropriate measures to stop them.” On November 5 the statement of the International Union of Lawyers Tigran Janoyan was disseminated, where the public of the country was called to voice condemnation of the situation. Yerevan Press Club also shared the concern of the “ArmeniaNow” editorial staff and the International Union of Lawyers. All this, most probably, had its impact, since the threats stopped.

ON NOVEMBER 13 in Masis, at the court of primary jurisdiction of Ararat region hearings started on the suit of the resident of Khachpar village, Marineh Gabrielian, versus **Karineh**

Ashughian, Chief Editor of “**Ararat**” regional newspaper. The plaintiff demanded compensation for material losses equal to 125,000 AMD (about \$220) she had suffered, according to her assertions, as a result of previous trials between the parties that took place in 2001-2002.

This conflict had a long history. In June 2000, when Marineh Gabrielian was running for the position of the head of the village, “Ararat” newspaper published a letter, signed by 115 residents of Khachpar village, containing compromising information, such as the fact that in 1993 Ms. Gabrielian had been keeping an Azerbaijan prisoner of war and then, having established contact with his relatives, sold him to his family. In October the same year, the editorial staff received the written demand of Ms. Gabrielian that a refutation should be published. However, the demand did not specify what the subject of the refutation was and what the grounds for it were. For this reason “Ararat” published the photocopy of the demand, and mentioned in the postscript that the newspaper had to reflect the opinion of 115 villagers, while Ms. Gabrielian, for her part, had a right to present her own arguments, which would be readily publicized by the editorial office. Marineh Gabrielian, who had lost the elections, addressed the court with the demand to publish a refutation.

The prolonged legal proceedings that followed (*see details in the Annual Report on Freedom of Speech in 2001 at YPC web site: www.ypc.am*) were suspended in September 2001. By the court decision, the case was transferred to RA General Prosecutor’s Office to investigate into the main subject matter of the dispute related to the war prisoner. The case submitted to the General Prosecutor’s Office was “redirected” for investigation to the Prosecutor’s Office of Ararat region. Several months later, the investigative bodies reached the conclusion which noted in particular that Marineh Gabrielian’s brother-in-law “under the circumstances unknown to the investigation, brought from Mountainous Karabagh to Khachpar a 18-20 years old Azerbaijani with the aim of exchanging him for his son in captivity”. But given the absence of the plaintiff’s brother-in-law from Armenia, the circumstances of this case have remained in shadow. As the Prosecutor’s Office stated, “there is no factual evidence as to the sale of the war prisoner, (...) the war prisoner was not identified (...). In the course of 8 years, the war prisoner had not applied to RA law-and-order bodies about illegal actions against him”. The given statement actually testified to the fact that the regional Prosecutor’s Office had not clarified anything (one cannot expect in full earnest that former Azerbaijani war prisoner will apply to Armenian investigative bodies). According to investigators’ reasoning, if no application had been filed, no prisoner has existed, although the Khachpar residents kept stating the contrary.

Based on the conclusion of the Prosecutor’s Office, the court of primary jurisdiction of Armavir region on June 24, 2002 made a decision to oblige “Ararat” newspaper to publish a refutation. “Ararat” Chief Editor Karineh Ashughian confessed that she had been worn out with prolonged trials, therefore she had not applied to the Court of Appeal although quite certain of not having violated the law. The refutation was published on July 17, 2002.

In essence, a dangerous precedent was created in Armenia: a newspaper was legally obliged to refute the information confirmed by 115 people. And if law enforcement bodies had been unable to clarify all the circumstances related to the case, it did not mean that the published information did not correspond to reality. The editorial office, in its turn, having identified the signatures of the letter authors and interrogated the village inhabitants anew, had exhausted all possibilities of verifying the authenticity of the information. Nevertheless, the newspaper lost the case. It seemed the conflict should have exhausted itself. But Ms. Gabrielian, apparently, inspired by the favor of justice in her regard, decided

now to file a new suit on compensating material damage.

Moreover, the presented bill was obviously exaggerated: at the session of November 13, 2003, the plaintiff's attorney quickly accepted the proposal of the judge to make a reconciliation agreement and reduced the sum demanded from 125,000 up to 50,000 AMD. However, the defendant, this time more resolute in her intentions, declined this proposal and requested the court to consider the case in full detail. The judge met Karineh Ashughian's request. Further on, having considered the arguments of the opposite side, "Ararat" Chief Editor forwarded a petition on giving her two weeks for preparation of a counter-claim about protection of honor, dignity and professional reputation, as well as about material compensation. This request was also satisfied. On the session of December 10 the attorney of the respondent filed a counter-claim to protect the honor, dignity and business reputation of "Ararat" Chief Editor that was dismissed by the court.

During the hearings of December 23 the representative of the plaintiff did not appear, prompting the court to leave the suit unconsidered.

DECEMBER 2003

ON DECEMBER 17 at the extraordinary session of the National Assembly of Armenia the RA Law "On Lotteries" and the corresponding amendments to the Laws "On State Duty" and "**On Advertising**" in the third hearing and finally were adopted. The second reading of these documents was held on December 15, the first - on November 5. The amendments to the Law "On Advertising" stipulate restrictions on broadcasting the lottery commercials. In particular, a ban is introduced on airing lottery commercials on the Public Television of Armenia during the newscasts, as well as 15 minutes before and after them. For the TV channels in general now the cumulative duration of these commercials is restricted: it must not exceed 60 seconds during an hour and 9 minutes during the day. In this manner the deputies tried to put an end to the lottery domination on the Armenian air.

ON DECEMBER 29 the National Commission on Television and Radio summed up the broadcast licensing competitions, announced in mid-November. One of the frequencies on the competition, the 57th UHF in Yerevan, was claimed by four organizations: the founder of "A1+" TV company, "Meltex" LLC, "Noyan Tapan" LLC, "Avetis" CJSC (the homonymous TV company of which had been broadcasting on this frequency) and an unknown "Husaber" CJSC (the founder of "Yerkir-Media" TV edition).

The applications for the competition were to be considered by the National Commission on December 24. The day before, on December 23, the leaders of the Journalists Union of Armenia, Internews Armenia, the Armenian Film Critics and Journalists Association, the Association of Investigative Journalists, Yerevan Press Club, Committee to Protect Freedom of Expression, "Asparez" Journalist's Club appealed to the Chairman of the National Commission on Television and Radio Grigor Amalian (the copies were addressed to all the members of the National Commission). The letter of the seven journalistic associations of the country noted that the broadcast licensing competitions conducted generated much response in the public and attracted the attention of international structures. The latter ones, in particular, repeatedly stressed the need for greater transparency of decision-making by the National Commission. To this effect the signatories proposed that five independent experts (named in the letter) be involved in the study and evaluation of the bids for 56th UHF as volunteers. This frequency was of special interest since among the applicants was the founder of "A1+". The proposal made by the journalistic associations was compliant with the RA Law "On Television and Radio", the

Statutes of the National Commission and the resolution of this regulating body on the procedure for holding broadcast licensing competitions.

On the evening of the same day - December 23 - the response of the Chairman of the National Commission Grigor Amalian, who actually turned down the proposal, was received. While thanking the journalistic associations, Mr. Amalian informed that should necessity arise, the National Commission would resort to the services of these experts - "in the framework of their professional capacities".

On December 24 the applications were considered and on December 29, by the voting results of the National Commission members the winner of the competition for the 56th UHF of Yerevan was determined to be "Husaber" CJSC - the founder of "Yerkir-Media".

Summing up the activities of the National Commission on Television and Radio, during the first year of its work, in particular, the organization and conductance of competition, Yerevan Press Club Weekly Newsletter (*January 8-16, 2004*) named the main event of the period on the broadcast market to be the loss of air by "A1+" TV company that had a "purely political context": "The authorities, shielding themselves with the "independent" decision of the National Commission got rid of the unwanted TV channel." "Let us list all the TV companies that defeated "A1+" in the competitions: "Kenton", "Armenia", "TV 5", "Yerevan", "ARMENAKOB", "Cinemax" ("ArmNews"), "AR" ("Yerkir-Media" is omitted, since it has not as yet started operating) and compare what they offer the viewer with the programs of their rival, still fresh in the memory of the audience. Those who will say that all of them or at least their majority are superior in quality to "A1+", can applaud the National Commission for the work in the interests of the society. But will there be many such people?", YPC Newsletter concluded.