



YEREVAN PRESS CLUB

2004: YEAR OF ATTACKS ON JOURNALISTS

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

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JANUARY 2004

ON JANUARY 9, the first session of the RA Commercial Court on the suit of “Meltex” LLC, the founder of “A1+” TV company, versus the National Commission on Television and Radio was held. The plaintiff demanded to annul the decision of the National Commission on granting a broadcast license to “Cinemax” LLC, challenging the voting results of October 13, 2003, according to which “Cinemax” was named a winner of the competition for the use of 63rd UHF of Yerevan. “A1+” TV company, having also taken part in the competition believed that the application of “Cinemax” (broadcasts the programs of “EuroNews” TV channels and the programs of “ArmNews” TV company) contained false information (*see details in the Annual Report on Freedom of Speech in 2003 at YPC web site: www.ypc.am*). On January 21 the RA Commercial Court did not secure the suit, and the founder of “A1+” filed a challenge with the court of supreme jurisdiction. On February 27 the RA Court of Cassation left the decision of the RA Commercial Court on the suit of “A1+” TV company founder, “Meltex” LLC, versus the National Commission on Television and Radio unchanged.

ON JANUARY 12 the Report on Armenia, developed by the Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe and submitted to the Parliamentary Assembly of the Council of Europe, was publicized. A section of the Report was titled “Media Pluralism”. The Report noted that while there is no direct censorship in the country and there are numerous print organs and TV channels, the reporters “are not convinced that plurality of opinion is upheld in the electronic media”. The document presents the situation of the Armenian media-legislation, in particular, the process of the adoption of the RA Law “On Mass Communication”. The reporters noted that after the outcry in 2002 related to the first version of the draft; its revised edition was submitted to the parliament, “based on a text originating from the representatives of the mass media, the Yerevan Press Club and Internews. This move is most encouraging.”

The Report also mentioned that on December 3 the National Assembly of Armenia passed amendments to the RA Law “On Television and Radio”, which “has never satisfied the Council of Europe, as the experts’ recommendations have not been taken into account, particularly as regards the composition of (...) the Public Television and Radio Council and the National Television and Radio Commission”. The Council of Europe had made its recommendations on amending the draft law, however “to date we do not know to what extent all these comments have or have not been fully taken into account by the lawmakers”. The rapporteurs also addressed the issue of criminal libel and insult, as stipulated by Armenian legislation. “It is of course permissible for Armenia, like other European countries, to adopt criminal legislation on defamation. On the other hand, to prescribe prison sentences for such offences is completely disproportionate. We request the authorities to amend the Criminal Code in this respect”, CE representatives stated. Particular attention was placed in the Report on the situation of Armenian electronic media, in particular “A1+” TV company. Thus, the rapporteurs note that despite the undertaking of the authorities to hold a broadcast licensing competition on October 25, 2002, it did not occur until 8 months after, when the presidential and parliamentary elections were over. “To put a television channel off the air less than a year before the elections was tantamount to manipulating the media coverage of the campaign. Indeed the assessment made by the international election monitoring mission notes that public

television did not display impartiality in that it mainly covered the activities of the outgoing President in its news broadcasts”, the Report says. While the PACE rapporteurs note that the competitions the National Commission on Television and Radio held do not in principle violate the Armenian legislation, “the fact remains that given the silence or imprecision of the statutes, the commission assumed real discretionary power”. “At the conclusion of our mission, we express serious doubts about the pluralism of the electronic media in Armenia. It seems obvious to us that there is a real problem of freedom to inform the public via audiovisual media. The change in the membership and mode of appointment of the national radio and television commission - whose 9 members are appointed by the President of the Republic - could possibly bring about an improvement. It would also be desirable for the commission’s decisions to be fully reasoned. But the unhealthy economic context in which commercial rivalry knows virtually no rules or bounds is unfavorable for establishing a pluralistic audiovisual landscape of good quality in Armenia”, - the Report said.

On the same day, January 12, the Report of the PACE Committee on Culture, Science and Education on public service broadcasting was disseminated. The Report analyzed the situation of PSB in all the member states of the Council of Europe, including Armenia. Thus, the Report noted that “serious deficiencies in the legal framework hinder the development of the organization towards independence”. The reporter also stressed that the criticism of the Council of Europe on the appointment of all five members of the Council of the Public TV and Radio Company by the RA President was responded to by Armenian authorities with a quote of a need for constitutional changes. As a temporary solution, the Council of Europe suggested that the RA Law “On Television and Radio” include a stipulation for filling in the vacancies in the Council by a public competition. Notably, this suggestion of CE was included into the amendments passed on December 3.

Both Reports and the resolutions on them were considered at the PACE session on January 26-30. On January 27 the Parliamentary Assembly of the Council of Europe passed a resolution on honoring of obligations and commitments by Armenia. The resolution said that “Armenia has recently made considerable efforts to honor the obligations and commitments entered into”. At the same time PACE notes that the monitoring procedures would not be ended at this stage, until “Armenia has made further substantial progress on the outstanding commitments and notably has proved that it is able to organize the next presidential and parliamentary elections in compliance with international democratic standards”. Paragraph 19 of the resolution, devoted to the freedom of expression and media pluralism, expressed concern “at developments in the audiovisual media in Armenia” along with “serious doubts as to pluralism in the electronic media”. PACE states with regret that “the vagueness of the law in force has resulted in the National Television and Radio Commission being given outright discretionary powers in the award of broadcasting licenses, in particular as regards ‘A1+’ TV channel”. The document also noted the adoption of RA Law “On Mass Communication” and amendments to the RA Law “On Television and Radio” in December 2003.

ON 27 JANUARY the Parliamentary Assembly of the Council of Europe passed Recommendation 1641 (2004) on Public Service Broadcasting. This document, assessing the formation of public service broadcasting in the countries of Central and Eastern Europe and Newly Independent States notes in particular that in Russia the lack of independent public service broadcasting was a major contributing factor to the absence of balanced political debate during the recent parliamentary elections. In Azerbaijan, Georgia and Ukraine hardly any progress had been made in adopting the necessary public service broadcasting legislation that might meet Council of Europe standards. "(...) In other

countries, laws on public service broadcasting have been adopted but certain provisions and practices contradict European standards. In Armenia, all the members of the Council for Public Radio and Television are appointed by the President of the Republic", the Recommendation says.

FEBRUARY 2004

ON FEBRUARY 6 the National Commission on Television and Radio approved the changes to **the Procedure of holding broadcast licensing competitions**. The modifications were introduced due to the adoption of amendments to the RA Law "On Television and Radio" on December 3, 2003.

According to the new rules, now the broadcast licensing competitions will be announced not two, but six months ahead of the license expiry date for the frequency. The deadline for submission of applications by broadcasters has also been prolonged - 90 days (instead of the previous 25) since the competition announcement. The National Commission determines the winner on 150th day (previously - the 40th). The procedure came into force since March 1, after its publication in the Yearbook of departmental normative acts.

ON FEBRUARY 10 at the RA Commercial Court the hearing on the suit of "A1+" founder, "Meltex" LLC, versus the National Commission on Television and Radio continued. The litigation centered on the results of the broadcast licensing competitions of June 11 and July 18, 2003, where the bids of "A1+" were rated lower than those of their competitors. The founder of "A1+" demanded the National Commission to grant specific grounds for refusing the broadcast licenses on the results of these competitions (*see details in the Annual Report on Freedom of Speech in 2003 at YPC web site: www.ypc.am*).

At the session the motion of the representative of the respondent motioned to reduce the suit volume. The court refused the motion, and the responding party challenged the judge. The new judge managed to reject the suit of the "A1+" founder in just one session - on March 23. The plaintiff challenged the ruling with the supreme jurisdiction court. On April 23 the RA Court of Cassation confirmed the decision of the RA Commercial Court. Thus, after this ruling by the Court of Cassation, "A1+" exhausted all the possibilities to challenge the results of the broadcast licensing competitions in the Armenian judicial bodies.

ON FEBRUARY 12 at the session of Armenian Government the draft on introducing amendments and additions into **the RA Law "On Freedom of Information"**, adopted on September 23, 2003 and in force since November 14, 2003, was approved. The Law itself was developed on the initiative and with the participation of Yerevan Press Club and a number of other NGOs. In the opinion of experts, it is generally rather progressive and ensures the right to access and receipt of information (*see details in the report for 2003 on YPC web site: www.ypc.am*).

The initiative of the Government caused a broad negative response both in Armenia and abroad.

On February 19 the Freedom of Information Civic Initiative, uniting three NGOs (Freedom of Information Center, Media Law Institute and Civil Society Institute), demanded to withdraw the draft. The statement, issued by the Civic Initiative, says that the amendments presented greatly alter the essence of the Law in force and deprive "people of real opportunity to receive information". The subject of greatest criticism of the Civil Initiative

was, in particular, the reduction of the list of information types to be mandatory published, the abolition of the provision, prohibiting the refusal to provide information on the danger to security or health of citizens or presenting the real state of affairs in environment, health and other vitally important spheres. The amendments also stipulate responsibility only for non-provision of information, while initially the Law called for responsibility for provision of false information, too.

An appeal to withdraw the draft was also made by the OSCE Yerevan Office, "Article 19" international organization, Justice Initiative of Open Society.

On March 5 the draft on amendments to the RA Law "On Freedom of Information" was the subject of 5 the expanded meeting of "Partnership for Open Society" coalition that at that point united over 30 non-governmental organizations. It was noted in particular that the amendments, when the Law has not been actually applied, are premature, particularly, since their majority reduced the democratic potential of the acting legislation. The allusions of the amendment authors to the controversies within the Law and its contradiction to the RA Constitution, as quoted in the appropriate resolution of the Government, were groundless. Common amazement was caused by the fact that despite the numerous requests, neither the RA Ministry of Justice that authored the amendments, nor the Government presented the official text of the draft approved to the public organization, despite the numerous requests, thus seriously violating the principles of freedom of information as such.

As a result of a discussion at an expanded session of the "Partnership for Open Society" and upon the suggestion of the President of Yerevan Press Club Boris Navasardian an address to the RA Government was passed. The address proposed: 1. To withdraw the draft law on introducing amendments and additions to the RA Law "On Freedom of Information"; 2. To ensure the application of the RA Law "On Freedom of Information", including the speedy development and adoption of the appropriate sublegislative acts, not to relate the possible need for the improvement of the Law to its application; 3. Should there be initiatives on amending the law, to broadly discuss them with representatives of civil society; 4. When initiating amendments to the Law, to supplement them by specific and detailed justification.

On March 23, RA Ministry of Justice, Internews Armenia and "Article 19" Global Campaign for Freedom of Expression adopted a joint communique as a result of two days' discussions (March 22-23) on amendments to RA Law "On Freedom of Information". The sides agreed that the discussion on introducing amendments to Law "On Freedom of Information", adopted in September 2003, should not impede implementation of the existing Law. "The Ministry of Justice welcomes any proposals that would facilitate the implementation of the existing Freedom of Information Law and will consider them seriously", the communiqué notes. "Any amendments to the Law will aim to strengthen and clarify protection of the right to freedom of information as recognized in this Law, the RA Constitution and international agreements", was further mentioned. Besides, the communique emphasizes that "in the process of drafting and adopting amendments to the Freedom of Information Law there will be full consultation with civil society, including the Freedom of Information Civic Initiative, Internews Armenia, the Yerevan Press Club and others, as well as international organizations". The communique also contains commentary on several articles of the Law "On Freedom of Information".

ON FEBRUARY 25 the U.S. Department of State released its annual report on human rights practices in different countries of the world in 2003, prepared by the Bureau of

Democracy, Human Rights and Labor.

Speaking about the situation with the freedom of speech and press in Armenia, the US Department of State notes that "while the Government generally respected freedom of speech, there were some limits on freedom of the press, including one incident of violence, the denial of broadcast licenses, and self-censorship". The evaluations in the report for the 2003 were mostly the same as in 2001-2002. Thus, the state publishing house and press distribution agency acted 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 said. As to the Public Television of Armenia, it continued to take "policy guidance from the Government", "presented mostly factual reporting but avoided editorial commentary or criticism of official actions". The quality of reporting on private television and radio stations, as the authors note, varied, and "self-censorship inhibited the stations from expressing editorial opinions to avoid retribution". Noting that there is no official censorship in the country, the Department of State mentioned that there were reports of intimidation of journalists. "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". The document also remarked on the adoption of RA Law "On Mass Communication" by National Assembly in December that demands the media to periodically report their incomes and expenses protects journalists in performance of professional activity, abolishes the procedure of media registration. As specific violations of freedom of speech and press in 2003 the research mentioned the attack on the correspondent of "Chorrord Ishkhanutyun" newspaper Mher Ghalechian; the situation of "A1+" and "Noyan Tapan" TV companies that were unable to receive broadcast licenses. The Department of State also noted that "the Public TV, the major state-funded newspapers, as well as most major private television stations, which are generally pro-government, provided heavily biased reporting in favor of incumbent President Kocharian during the presidential election campaign". At the same time the first television debate between the candidates took place during the second round of the presidential election in Armenia.

ON FEBRUARY 27 the National Commission on Television and Radio passed a decision on imposing an administrative fine on "**Van**" radio station and Radio "**HAY**" for the violations of the ban on tobacco advertising in broadcast media, as stipulated by the RA Law "On Advertising". By the findings of monitoring made by National Commission, on February 3 Radio "HAY" broadcasted the commercials of cigarettes produced by an Armenian company eight times, and "Van" radio did so twice on February 11.

MARCH 2004

ON MARCH 4 at the session of the RA Government the **Model Procedure for accrediting journalists in the state administration bodies** was approved. The procedure was developed by the RA Ministry of Justice in compliance with the requirements of the RA Law "On Mass Communication", passed in December, 2003. The draft of this sublegislative act was subject of detailed and constructive discussion with a number of journalistic associations and media. In particular, Yerevan Press Club, Journalists Union of Armenia, Internews Armenia and the Committee to Protect Freedom of Expression made their suggestions to the Ministry of Justice on amending several

provisions of the Procedure.

Thus, the organizations mentioned proposed to introduce in the Procedure a provision on prohibiting any form of censorship of accredited journalist's professional activity by a state institution. This suggestion was introduced in the ratified text of the document.

According to the journalistic associations, the draft of the Model Procedure presented extra obstacles for accreditation. The latter ones were removed, similarly to the point providing for the cases in which the journalist is not eligible for accreditation. Alongside this, the professional organizations proposed to stipulate a ban on filing any claims except the ones specified in the point determining the accreditation procedure. This suggestion was not included in the official document ratified by the Government.

The journalistic organizations also suggested that accreditation limitations be purely technical, in particular, be conditioned, for instance, by the absence of proper venues at the disposal of a state administration body, etc. However, the final version of the Procedure preserved the quantitative limitation as well: no more than two journalists and two photo correspondents/two cameramen from each media.

The suggestion on simplifying the procedure of access of media representatives in state administration body - by identification card and list of accredited journalists - was partially accepted.

On the initiative of journalistic organizations, a point was added in the Model Procedure obligating the ministries no less than twice a month to provide journalists with a summary report of their activity, as for the ministers - no less than once in half a year to inform about the work done at a press conference.

Thus, the ratified document may be considered to be a result of a certain compromise between the Ministry of Justice and journalistic organizations. However, it is necessary to admit that on the basis of this sublegislative act each state administration body develops its own accreditation regulations. The latter ones and their implementation will allow assessing appropriateness and effectiveness of the Model Procedure.

ON MARCH 10, Vienna-based International Press Institute (IPI) publicized its annual world press freedom review for 2003. The review examines the state of the media in over 184 countries, territories and administered areas.

The section devoted to Armenia states that after Armenia's independence in 1991, the development of a free press and freedom of speech has been rather slow and often variable. Though there is no direct censorship, but "popular independent channels are kept off the air" and "many journalists in Armenia associate elections with press freedom violations and fear for their safety". The difficult economic climate, according to the IPI review, makes it hard for the media to become fully independent, and many media are being influenced by political parties and financial-industrial groups that support them. As an example of legislative regulation of media activity, the review particularly refers to the situation with adoption of RA Law "On Mass Communication" and the new Criminal Code, which preserved provisions on criminal persecution of the journalists for libel and insult. It is emphasized that legislative branch rejected the appeals of many Western countries and reputable international organizations about the necessity to decriminalize libel and insult. As International Press Institute states, the first round of the presidential election in Armenia did not run smoothly for the media. The first case of fining a TV company for violation of

the regulations for election campaign coverage of presidency candidates was registered. Besides, representatives of various independent national media were subjected to intimidation and physical attacks on the day of elections. There was pressure on “Ankyun+3” TV (Alaverdi, Lori region) during parliamentary election campaign. "Attacks on journalists also took place which were unrelated to the elections", the review notes. In particular, the researchers describe the trial on the murder case of Chairman of the Council of RA TV and Radio Company, Tigran Naghdalian, beating of “Chorrord Ishkhanutyun” newspaper correspondent, Mher Ghalechian, and head of “Or” newspaper, Gayane Mukoyan. The review also mentioned the ban on the air of oppositional TV channels “A1+” and “Noyan Tapan”. “The official reason for the denial was the claim of the National Commission on Television and Radio that the ‘A1+’ station lacked the technical and financial preparation to broadcast. However, many media workers did not agree with this claim”, the review states. The situation with press freedom in Armenia is illustrated by other instances of pressure on media in 2003.

ON MARCH 11, the US Committee to Protect Journalists (CPJ) released its annual survey about attacks on the press of different countries in 2003.

In the section devoted to Armenia it is noted in particular that "there were several blows to media freedom in 2003". As an example to illustrate the case criminal punishment of the journalists for libel and insult and “the continued ban on broadcasting” of “A1+” TV are cited in particular. "In a country where 85 percent of the population receives its news from television, the ‘A1+’ case has become a touchstone for press freedom", CPJ emphasizes. "Armenia’s print media enjoy relative freedom but are largely controlled by political parties and wealthy businessmen, which dampens outlets’ objectivity. The print press is also plagued by low professional standards", the survey runs. The survey also comments on the trial of the murder case of Chairman of the Council of Public TV and Radio Company, Tigran Naghdalian.

ON THE EVENING OF MARCH 12, a shooting took place in “Triumph” cafe of Yerevan, in which five visitors were wounded. The representatives of law and order bodies, arriving at the site of the incident, hampered the activity of “**Noyan Tapan**” news agency correspondent, **Armenak Chatinian**. As the journalist said, his press card was crumpled by the police and his camera snatched away. Armenak Chatinian was transported to the police department of Center community of Yerevan and released only four hours later. He got his camera back but without the film containing the shots at the site of the incident.

ON MARCH 15, at the court of primary jurisdiction of Arabkir and Kanaker-Zeytun communities of Yerevan, legal proceedings started on the suit of a member of RA State Commission on Protection of Economic Competition, Artashes Bakhshian versus “**Delovoy Express**” business weekly. The conflict broke out after the publication in the newspaper (#39, *September 25 - October 2, 2003*) of an interview with Artashes Bakhshian. According to Chief Editor of “Delovoy Express”, Edward Naghdalian, the interview was very extensive and its content -“shocking”. Therefore, the article was abridged and provided with editorial comments. Afterwards, Artashes Bakhshian called the editorial office and declared that the content of the interview was distorted as a result of editorial interference. The parties did not come to agreement, and Artashes Bakhshian applied to the court with a claim obligating the weekly to publish the interview in full. Chief Editor noted that the editorial office was willing to meet this requirement but only through court decision. At the session of March 25 the suit of Artashes Bakhshian was refused.

ON MARCH 15-16 at the Sixth Session of EU-Armenia Parliamentary Cooperation

Committee, held in Yerevan, the Final Statement and Recommendations were adopted unanimously and pursuant to Article 89 of the Partnership and Cooperation Agreement. In the Recommendations Parliamentary Cooperation Committee “draws attention to the vital role played by a free press in ensuring the development of democracy in Armenia and stresses in particular the importance of pluralism in the electronic media”.

ON MARCH 19, Fund for Speech Freedom Support announced a campaign on April 2, 2004 in support of “A1+” TV company (the TV company was deprived of air as a result of refusal by National Commission on Television and Radio of broadcast license on that very day, two years before). In the course of these two years, numerous international organizations, journalistic community of the country repeatedly addressed the Armenian authorities with a claim not to politicize “A1+” issue and to give the society an opportunity to hear an alternative viewpoint.

The initiative group on the support of “A1+” TV company called on everyone who values freedom of expression to participate on April 2 in the procession and rally thus supporting the following claims to the Armenian authorities: to conduct a competition for vacant frequencies and to involve representatives of public organizations in the process of rating assessments of the bidders’ competition packages.

On March 31 at the press conference at Journalists Union of Armenia the representatives of the Fund for Freedom of Speech Support announced that in the past few days they were exposed to various forms of pressure and persuasion by the police and prosecutor’s office urging them to give up their plans to hold an action to support freedom of expression, but nevertheless were firm in their intention. However, the organizers had to change the route and the place of the rally. During the meeting with journalists it was also stressed that the aim and demands remain the same and are not politicized.

On April 2 the procession started from the building where “A1+” is located and ended by a rally next to Matenadaran, the storage of ancient manuscripts. At the rally, the claims to the authorities, as mentioned above were announced. The event itself, with 400 people participating, was excess-free.

ON MARCH 20-21 in Yerevan a round table meeting “Reforms of Armenian Media Legislation and Their Compliance With European Standards” was held. It was organized by Yerevan Press Club and “Article 19” Global Campaign for Freedom of Expression. At the event the statement of “Article 19” on the media legislation in Armenia was circulated and another statement was adopted, by the “round table participants” themselves.

The statement by “Article 19” emphasized a certain progress in developing legal guarantees for freedom of expression and media diversity achieved by Armenia in the past four years - since its accession to CE. At the same time the organization expressed its concern over a number of problems demanding urgent solution. In particular, “Article 19” statement noted that regular refusal of the National Commission on Television and Radio of broadcast license to “A1+” TV Company testifies to “lack of political independence” of this body regulating private broadcasters’ activity.

The statement adopted by the “round table participants” contained an appeal to the Armenian authorities to take urgent action to address a number of concerns. This referred to the abolishment of provisions on libel and insult in the Criminal Code and their replacement by appropriate provisions in the civil legislation. With regard to broadcasting legislation it was proposed to strengthen the independence of the National Commission on

Television and Radio and the Council of Public TV and Radio Company, to make the licensing procedure more transparent. The need to abandon the amendments to the RA Law “On Freedom of Information” and the implementation of the current law with immediate effect was stressed. Welcoming the steps taken in the RA Law “On Mass Communication” to protect journalists’ sources, as well as the statement of intent made by the Minister of Justice on the further work to bring the legislation on criminal proceedings with these provisions, the round table participants also stressed the importance to remove the legal restriction on the dissemination of certain categories of information by journalists. The signatures also stressed that accreditation provision should promote, not restrict, the right of journalists to report on the activities of state bodies. In conclusion, it was proposed to form a permanent group at the Ministry of Justice to involve fully civil society representatives in any discussion of present or future laws and regulations that affect the exercise of the right to freedom of expression, including the implementation of these laws. "This group should collaborate and consult with the Working Group under the parliamentary Commission on Science, Education, Culture and Youth Issues", the statement said.

ON MARCH 30, morning, Chairman of Armenian Helsinki Association, correspondent of “Prima” Russian news agency, **Michael Danielian** was attacked. Four unknown persons assaulted the human rights defender and journalist on his way to the house entrance when he was coming back after a walk with the dog. With the bruises from heavy beating and possible brain concussion, Michael Danielian was transported to the neurosurgical department in one of Yerevan hospitals. According to the victim, the attack was provoked by his human rights activity and was to serve as of warning on the part of the authorities.

On the same day, March 30, Yerevan Press Club, Journalists Union of Armenia, Internews Armenia public organization and Committee to Protect Freedom of Expression presented a statement, in which this act of violence was qualified to be “a consequence of political intolerance in the country in recent days”. The four journalistic associations expressed a hope that “that law and order bodies will break the sad tradition of the last years and will find the culprits since only disclosing and punishing the perpetrators will prevent further spread of violence”.

On March 31, RA President press service reported that RA President Robert Kocharian ordered General Prosecutor of Armenia Aghvan Hovsepian to study the circumstances of the attack at Michael Danielian and to take all necessary measures for finding the culprits. At the press-conference of April 23 the Chairman of Armenian Helsinki Association announced that despite the immediate assignment of the RA President Robert Kocharian to General Prosecutor Aghvan Hovsepian, those guilty in attacking him will never be found and punished. According to Danielian, on April 1 he was visited at the hospital by the investigator of prosecutor’s office of Arabkir community, Yerevan, who informed Mr. Danielian about the institution of criminal proceedings, however Danielian was not well enough at that stage to give testimony. The next visit of the investigator, this time with a forensic expert, to Mr. Danielian was only made on April 14 when he was recovering at home and the traces of the beating had already disappeared. The conversation with the investigator convinced the head of the Helsinki Association that the assignment of the President will not be carried out.

APRIL 2004

ON APRIL 5 in the city of Ashtarak correspondent of “**Haikakan Zhamanak**” daily **Haik Gevorgian** was detained. The detainment was made during the photo shooting on the

highway leading to Yerevan and blocked by the police (the roads were being controlled due to opposition rallies in the capital). According to the journalist, he was given an hour-long “instructive talk” on legal issues at local police department.

ON APRIL 5, during the meeting of “National Unity” opposition party leaders with the voters, organized in one of Yerevan downtown streets, young people of strong build and boxer cut started to throw eggs at the speaker and those assembled. In some spots, objects of petard type exploded at people’s feet. The journalists covering the meeting tried to record the incident, however, they were attacked immediately: the “strong guys”, divided in groups, started to use violence against media representatives and to shatter their equipment.

As a result, physical, material and moral damage was caused to the media and journalists. Cameras of “Kentron”, “Hay TV” private channels and Public Television of Armenia newscasts were broken, similarly to the one by cameraman of “National Unity” party. A cameraman of another private TV company, “Shant”, had the incident video record snatched away.

Photo correspondent of “Hetq” online publication of Association of Investigative Journalists of Armenia, UK citizen Onik Grigorian, “Aravot” daily correspondent Anna Israelian and “Haikakan Zhamanak” daily correspondent Hayk Gevorgian were exposed to attacks and blows. All the three had their photo cameras crashed. The 17-year-old resident of Haghartsin village, Armen Tamrazyan, attempting to protect the journalists, was seriously injured.

The rally in the capital was heavily guarded by the police. According to the eyewitnesses, their administration, in particular Deputy Head of RA Police Hovhannes Varian were also present. However, none of the guards interfered in the incident with the journalists. Thus, the “Hetq” photo correspondent Onik Grigorian stated that after a blow in the face he “turned to the police for help but they did not care to interfere”. Besides, the journalist expressed his perplexion at the coverage of the events by Public Television of Armenia placing “all blame on the opposition”.

Meanwhile, on the same day the evening broadcasts of “Kentron” TV repeatedly showed the scene of the “strong guys” dealing with one of the cameramen. Several photos of the attackers were also published by a number of newspapers. According to various opinions, egg-throwers/camera-breakers were bodyguards of high rank officials and oligarchs.

On April 6, Head of Yerevan Police Department Nerses Nazarian declared at the briefing devoted to April 5 events that the police forces were ordered to step in only in case of emergency. Given Colonel Nazarian’s refusal to answer the questions, it was impossible to find out whether the acts of violence towards journalists might be viewed as “emergency”? Meanwhile, Yerevan Police Head asserted that materials on the incident were in preparation stage.

The political forces, public, including human rights and journalistic associations of the country, the international organizations made public condemnations of the incidents. Thus, on April 6 upon the initiative of Yerevan Press Club, the participants of “Civil Society in the Context of Democratic Reform in Armenia” workshop, organized by “Partnership for Open Society” initiative (currently uniting 40 NGOs) adopted a joint statement. The statement, in particular, said that before the rally “the police impeded journalists’ activity on the highways connecting the regions with the capital”, and during the rally, “authorities

obviously connived at the violence” towards them. The parties to the statement also blamed “overt bias of certain media, even those who fell victim to the incident, in covering the events”. The workshop participants called upon the law enforcement bodies to punish the instigators and perpetrators, and “on all the media, irrespective of their political preferences, to demonstrate professional unity and to rise against the cases of violation of freedom of expression through joint efforts”.

On April 8 the RA Police instituted criminal proceedings on item 2 (“Harsh violation of public order, accompanied with exceptional cynicism”) Article 258 (“Public disorder”) one month after the incident. On May 4, by the order of the General Prosecutor Aghvan Hovsepien the criminal case on the violent acts against media representatives during the opposition rally on April 5 was passed to the authority of Yerevan Prosecutor’s Office. On May 12 the RA General Prosecutor’s Office communicated that two of attackers on journalists during an opposition rally of April 5 have been interrogated: a resident of Yerevan, unemployed Ashot Avetisian, born in 1965, and a resident of Artashat city, unemployed Hrair Harutiunian, born in 1957, who “made a complete confession and gave appropriate testimony”. They were charged by Article 185 (“Premeditated destruction or spoilage of property”) of the RA Criminal Code. As a preventive punishment they were obliged not to leave the places of permanent residence. The preliminary investigation was completed on June 2.

On June 10 at the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan the hearing on the case of inflicting material damage on the media during the opposition rally on April 5 was held. As it has been reported, the media representatives were attacked by a group of “strong young men”, when they were attempting to record them throwing eggs at rally participants. Before the proceedings the defendants compensated the damage caused to Public Television of Armenia, “Kentron” (presently “Aravot”) TV company as well as “Haikakan Zhamanak” and “Aravot” dailies. In the course of the court session none of the injured made additional material claims. The court sentenced Ashot Avetisian and Hrair Harutiunian to minimal punishment, stipulated by Part 1 of Article 185 of RA Criminal Code (“Intended destruction or spoilage of property”), namely a fine of 100,000 drams (about \$180).

This court process along with the lack of progress on events of April 12-13 (*see below*) conditioned the adoption of a joint statement by Yerevan Press Club, Journalists Union of Armenia, Internews Armenia and Committee to Protect Freedom of Expression. In the statement, disseminated on June 29, the process on the events of April 5 was qualified to be a farce. “The court sentenced Ashot Avetisian and Hrair Harutiunian to minimal punishment, stipulated by Part 1 of Article 185 of RA Criminal Code (“Intended destruction or spoilage of property”), namely a fine of 100,000 drams (about \$180)”, - the applicants stressed. In the opinion of the four journalistic associations, besides Article 185 of the RA Criminal Code, the charges should have been introduced by Article 164 (“Obstruction of legitimate professional activities of a journalist”), which has not been done by the preliminary investigation body. The court failed to correct the mistake of the latter and did not direct the case for additional investigation. “Neither the bodies of preliminary investigation, nor the court displayed any wish to protect the right of journalists to gather and disseminate information, to say nothing of the fact that the punishment defined is not adequate to the misdeed. Moreover, the supporters of those who committed the crime obstructed the entry of journalists to the courtroom and exerted pressure on the course of the trial. We expected more disclosures and trials to come, however nothing was done to find those guilty of other violent acts. Up to day no measures have been taken to punish the policemen who were impartially observing those who interfered with the work of media

representatives and broke their equipment on April 5. The policemen who gave a beating to journalists on Baghramian Avenue in the early morning of April 13 were not revealed and punished either. Not even a condemnation of their actions was made. Instead from the highest power levels statements were made that it had been impossible to tell journalists from the demonstration participants", the statement by the four journalistic organizations said.

ON APRIL 9 in Armenia, broadcasting of Russian NTV channel was interrupted. On April 8, the sound disappeared, whereas the next day there was no picture. "Paradise" company (retransmitting NTV) accounts for disappearance of the Russian channel from Armenian air by technical reasons - mainly transmitter problems. Meanwhile, there was an opinion that technical obstacles were not accidental but induced by NTV's covering of the opposition rallies in Yerevan. An indirect proof of this may be the last year's blocking of NTV in similar situation. The broadcasting was interrupted on February 26, 2003 and resumed only on March 17 - in hardly two weeks after the second round of presidential elections. This time, even AATV satellite network subscribers were deprived of NTV programs.

On June 14 at the session of National Commission on Television and Radio it was decided to pass the 23 UHF of Yerevan, where previously the programs of NTV were re-broadcast to the RA Ministry of Transportation and Communication for complete rebroadcast of Russian "Kultura" TV channel in compliance with the recently signed interstate agreement between Armenia and Russia. The issue of transferal of the 23rd frequency to the RA Government was discussed with the management of "Paradise" that did not claim its ownership of the frequency in any way. The broadcasts of "Kultura" started on June 16.

ON THE NIGHT OF APRIL 12-13 in Yerevan, the procession and rally organized by opposition forces near RA National Assembly ended up in violence. At about 00:30, street lights went off on Baghramian Avenue, and at about 2 am, the picket was dispersed by police units using special devices - water jets, explosive bags, rubber bludgeons, electroshock.

In the official April 13 statement of RA Police, the actions of the rally participants were qualified as illegal, aggressive and uncontrollable, presenting real threat to life and health of police and the citizens. thus inducing the law enforcement bodies to use physical force and special devices against them in accordance with RA Law "On Police". The police declared about initiating criminal proceedings for organization of these public disturbances.

Among the victims (according to official data, medical assistance was provided to 30 people), again were journalists similarly to the meeting of opposition deputies with the voters a week ago (see YPC Weekly Newsletter, April 2-8, 2004). The evidence of the journalists, as well as their other colleagues on the spot contradict the official version of the events on early morning of April 13: picket participants were not aggressive, "some of them even settled for the night", therefore it may be viewed as an action planned by the authorities.

That night correspondents of "Haikakan Zhamanak" daily **Haik Gevorgian** and **Avetis Babajanian**, as well as cameraman of Russian **ORT TV** in Armenia **Levon Grigorian** and "Chorrord Ishkhanutyun" newspaper correspondent **Mher Ghalechian** were beaten while on duty.

According to "Haikakan Zhamanak" correspondent Haik Gevorgian, Deputy Head of RA

Police Hovhannes Varian personally took his photo camera away, whereas the policemen nearby started beating the journalist with their bludgeons and feet. Afterwards, Haik Gevorgian was transported to the police department of Nor Nork community, and later to one of Yerevan hospitals.

Avetis Babajanian was not as seriously injured as his colleague and was also taken to the same police department.

ORT cameraman Levon Grigorian told that civilians approached him and tried to take the camera away (later the damaged expensive equipment without the tape was discovered at the RA Police press service). These persons dragged the resisting journalist to the group of special forces who started beating him with batons using electroshock.

“Chorrord Ishkhanutyun” correspondent Mher Ghalechian was exposed to violence at about 3 am, when the journalist, on the instructions of the editorial office, investigated into the data on the search at opposition “Republic” Party headquarters. According to Ghalechian, he was about to leave after taking pictures when he was assaulted by four representatives of special forces. He was beaten, and later taken to the police department of Erebuni community where he was detained for 16 hours.

During the raid to the headquarters of another opposition party - Popular Party of Armenia - its press secretary Ruzan Khachatrian was arrested. The law enforcement bodies broke open the door of her private office and escorted her with beating to the police department of Center community. On April 14, Ruzan Khachatrian was released.

On April 13, Yerevan Press Club, Journalists Union of Armenia and Committee to Protect Freedom of Expression made a statement condemning violence against media representatives. The signatories stressed that “that law enforcement bodies have not yet revealed and punished the perpetrators of April 5 violence against the journalists”, “moreover, this time the police themselves used force towards journalists on their duty”. Reminding that “impeding journalist activity by any person even the police is criminal offence”, the three journalistic called on the authorities to “to track and punish, on Article 164 of RA Criminal Code, the persons using violence against the journalists on both April 5 and April 13 early morning, as well as to compensate the damage caused to the media”.

The facts of violence against journalists that occurred during the rallies of opposition on April 5 and 13 were condemned by Armenian and international, also professional, organizations. Thus, the Committee to Protect Journalists also appealed to the Armenian authorities “to investigate these attacks against our colleagues and bring those responsible to justice”. The April 14 statement of CE Secretary General Walter Schwimmer expressed concern over anti-democratic decline in Armenia and stresses the necessity for dialogue among all political forces. “There is incomplete and conflicting news of excessive use of force by the police, of arrests - including of members of parliament - and of a media blackout. This confirms one thing: if there was complete freedom of the media, we would have a clear picture of the situation”, CE Secretary General noted. The need of a dialogue between the authorities and the opposition of Armenia was emphasized in the statement of Armenian Assembly of America released on April 16, urging the Armenian authorities to “take resolute steps to protect journalists from interference and violence as they perform their professional duties”. On April 19 the Presidents of the World Association of Newspapers Seok Hyun Hong and the World Editors Forum Gloria Brown Anderson addressed a statement to the RA President Robert Kocharian, in which they voiced concern over the events of April 5 and in the early morning of April 13 and asked the

Armenian President to ensure that a thorough investigation into the incidents is conducted. "We respectfully remind you that it is the duty of the state to provide an environment in which journalists are able to carry out their professional duties without fear of intimidation. Such incidents foster a climate of fear that inhibits journalistic investigation and can promote self-censorship", the letter by the heads of the organizations uniting 18,000 publications of 100 countries stressed.

"Haikakan Zhamanak" initiated a peculiar action. In April 14 issue, the daily accompanied all materials devoted to the events with the same photo of RA Police Deputy Head Hovhannes Varian. Besides, the newspaper reported that it intends to file a petition to General Prosecutor's Office for bringing him to criminal responsibility.

On April 16 "Haikakan Zhamanak" daily published "Notification on the Crime Committed", sent on the previous day, April 15, by the Chief Editor of the publication Nikol Pashinian to the RA General Prosecutor Aghvan Hovsepian. Proceeding from the narration of the events of the night of April 13 by the correspondent of the daily and basing on the fact of physical and moral damage incurred by the journalist, "Haikakan Zhamanak" the daily solicited to institute criminal proceedings against Hovhannes Varian by Articles 164 ("Impeding the legitimate professional activity of journalist") and 309 ("Exceeding the official authority") of the RA Criminal Code and bringing him to account.

On April 16 a similar address but referring to the Head of the Police of Center Community of Yerevan Hovhannes Tamamian was filed with the General Prosecutor by the correspondent of "Chorrord Ishkhanutyun" newspaper Mher Galechian. In the piece "How It Happened", published on April 15 in "Haikakan Zhamanak", the journalist gave a detailed description of the act of violence and his illegal detainment. In the letter to the General Prosecutor Mher Galechian mentioned that the people who attacked him took his bag containing a recorder, photo camera, owned by "Chorrord Ishkhanutyun" Editor, 300 thousand drams, the round seal of "Ogostos" press dissemination agency and documentations of the public organization "Shamiram". According to the journalist, when he was released from the cell of preliminary detainment where he had spent 16 hours, the bag was not returned to him. Galechian demanded to hold Hovhannes Tamamian accountable for impeding with the exercise of a professional activity by the journalist, for illegal detainment and for appropriation of his property.

Meanwhile, on April 20 in a number of Armenian media the statements of Hovhannes Varian and Hovhannes Tamamian were published, in which they denied being involved in illegal actions against journalists.

As a response to the statement of Hovhannes Varian, "Haikakan Zhamanak" in the issue of April 21 places the half- and full-faced photos of the Deputy Head of Police. The editorial comment mentions that these are the photos of "a dangerous criminal", who, as it appears, "has endowed himself with the authority of the Deputy Head of the RA Police and likes to introduce himself as Hovhannes Varian". This man, as the newspaper writes, took the editorial camera of Haik Gevorgian and ordered "the criminals with batons that accompanied him" to beat the journalist. The edition addresses the law enforcement bodies to identify the person in the photos who "introduces himself as the Deputy Head of the RA Police Hovhannes Varian".

On a number of episodes, involving media representatives injured, criminal proceedings were instituted. However, the situation in place caused doubts that the law enforcement bodies were interested to reveal and punish the people who used force against journalists

on professional duty. Thus, on April 24 "Haikakan Zhamanak" published an article "Investigation Course Becoming a Disgrace", where the daily noted that both its reports on the incidents with Haik Gevorgian on April 5 and 13 are currently considered by the investigative bodies within the proceedings, instituted, in fact, against the opposition parties. As the newspaper writes, "the potential object of the case" started by Article 258 of the RA Criminal Code ("public disorder") with regard to events of April 5 is the opposition party "National Unity", while the opposition "Justice" block is accused of an attempt of a violent regime overthrow in the early morning of April 13. According to "Haikakan Zhamanak", the prosecutor's office, instead the two ways for proceeding applications, as stipulated by the legislation - to institute criminal proceedings basing on a press report or to refuse in instituting it - chose to act in the third manner, which, in the opinion of the editorial office is inadequate and does not allow to expect those guilty to be punished.

On July 21 in accordance with a resolution made at the session of the Media Legislation Working Group, established by OSCE initiative, the Head of OSCE Office in Yerevan Vladimir Pryakhin addressed an inquiry to the RA General Prosecutor's Office on the progress made in investigating the facts of violence against journalists, committed on April 5 and on the early morning of April 13. By the assessment of Yerevan Press Club, answer of the General Prosecutor's, received on August 6, was pure formality. Thus, the broken nose and a number of other traumas received by cameraman Levon Grigorian were qualified as "slight corporal injuries".

As of the end of 2004, no one bore any responsibility for beating journalists on the night of April 12-13.

ON APRIL 14 "Investigative Journalists" NGO its Chairman **Edik Baghdasarian** filed a suit with the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan against the Yerevan municipality. The plaintiff demanded to oblige the municipality to provide him with resolutions, passed in 1997-2003 on the construction in the public green zone around the National and Opera Ballet Theater. During the past years 12 cafes and restaurants were built on those grounds. The destruction of the green "spots" that Yerevan is not very abundant in has always caused numerous public protests, neglected by the city authorities. An opinion was voiced that there is not a single incidental person among the owners of the cafes and restaurants around the Opera Theater; they all belong to people, well-known in the country.

Having been repeatedly refused access to documents, instituting the legal basis for the construction, by the Yerevan Mayor Yervand Zakharian, Edik Baghdasarian addressed a letter to the Control Chamber of the RA President, from where it was redirected back to the municipality, where the journalist was still being refused information. The head of "Investigative Journalists" decided to protect his right to information by litigation.

The hearings on the case started on June 9. At the court session the representative of the municipality admitted that the city administration was "late" with the answer to the "Investigative Journalists" and asked to clarify which information is necessary. The plaintiff specified that he is interested to know how many cafes and restaurants are located in the zone of the National Opera and Ballet Theater, who are their owners, what resolutions constituted the grounds for allocated them the land, and submitted the enquiry in written form. The court gives the respondent time to prepare the information requested. However, at the session of June 21 the representative of the municipality submitted to the court a letter, signed on June 16 by a head of an appropriate division of the city administration. The letter informed that "Investigative Journalists" must be even more specific as to which

“subjects” are of interest to them. On her behalf, the judge noted that the organization should have gathered information from other institution, such as the State Real Estate Cadastre Committee and only afterwards, having exhausted all the possibilities, address the municipality. Eventually the suit was refused.

On July 6 “Investigative Journalists” challenged the ruling of the court of primary jurisdiction with the RA Court of Appeals. Along with this, the organization addressed a new inquiry to the municipality of Yerevan, listing all the enterprises operating on the territory around the Theater of Opera and Ballet and of interest to “Investigative Journalists”. At the hearings of the Court of Appeals, the municipality representative read out the response to this query that said in particular: “The document package on the enterprises that use the land is supplemented by State Register certificates. The State Register certificates the names of the founders of enterprises are not specified, therefore, the information on land allocation to the enterprises specified by you cannot be provided.” Although inquiry was centered not around the names of the enterprise owners, but on the legitimacy of them being allocated the territories, and dismissing the argumentation of the plaintiff on access to information in accordance with the legislation in force in Armenia, the court of secondary jurisdiction refused the appeal of “Investigative Journalists”. The organization challenged the decision with the RA Court of Cassation. On October 29 the RA Court of Cassation ruled to send the case back to the consideration of the Court of Appeals with a new composition. The municipality representative failed to appear at the first session of the Court of Appeals on November 24. At the second session of December 1, also held without the representative of the responding party, the suit of “Investigative Journalists” NGO versus the Yerevan municipality was secured. The court obliged the Yerevan Municipality to provide the plaintiff with the documents necessary. This time the municipality challenged the decision of the RA Court of Appeals with the body of supreme jurisdiction. On February 10, 2005 the Court of Cassation rejected the challenge, thus obliging the Yerevan administration to open the access to the documents requested to “Investigative Journalists”.

ON APRIL 28 at the session of the Parliamentary Assembly of the Council of Europe Resolution on honoring of obligations and commitments by Armenia was passed, focusing on the inner political situation in the country. The document said that the actions of Armenian authorities with regard to the protest actions held by opposition run contrary to the PACE Resolution on Armenia, adopted on January 27, 2004. Among other issues the PACE was concerned over the freedom of expression issues. “Freedom of expression continues to be seriously curtailed and several acts of violence against journalists, which took place during the recent events, were carried out or were allowed to happen by the police and security forces”, the Resolution point out. The PACE also called on Armenian authorities to immediately investigate - in a transparent and credible manner - the recent incidents and inform the Assembly of their findings, as well as “create fair conditions for the normal functioning of the media, notably as regards the issuing of broadcasting licenses to television companies, particularly to television channel ‘A1+’”. The Resolution notes that if by the September session of PACE no progress in implementing the recommendations is achieved, the Assembly “resolves to reconsider the credentials of the Armenian delegation”.

ON APRIL 28 the international human rights organization “Freedom House” published the annual global survey of media freedom in 2003. “Press freedom suffered a substantial worldwide decline in 2003” was the main conclusion of the researchers who evaluated the media situation in 193 countries of the world. Legal harassment, political pressure and violence against journalists combined to worsen conditions in many countries, resulting in the second consecutive year of global decline in freedom for news media, “Freedom

House” stressed. The situation with the media 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. In 2003 the rating of Armenia made 64 points. In other words, the Armenian media remain in “not free” category where they found themselves in 2002, having scored 65 points. The insignificant difference in the evaluation of the press freedom situation in Armenia in 2003 versus 2002 is due to the somewhat improved legislation.

ON APRIL 28 the Chairman of Helsinki Association of Armenia Mikael Danielian addressed a letter to the RA General Prosecutor Aghvan Hovsepian demanding to institute criminal proceedings against the correspondent of “**Hayots Ashkhar**” daily ***Kima Eghiazarian*** on clauses 2 and 3 of Article 135 of the RA Criminal Code (“Libel”). The reason for the appeal was the article by Kima Eghiazarian titled “Mika’s Hullabaloo for the Council of Europe” (“*Hayots Ashkhar*”, April 24, 2004) where, in the opinion of the human rights activist, an “ungrounded conclusion” is made that Mikael Danielian is “the spy of the Council of Europe in Armenia”.

No criminal proceedings were instituted. the investigative body in charge took into account the explanation of the author of the newspaper piece, who, referring to an Armenian language dictionary, pointed out that the word she used has other meanings but for a “spy”. Mikael Danielian challenged this decision in court. The court of primary jurisdiction and the RA Court of Appeals rejected the challenge. On August 6 the RA Court of Cassation confirmed the legitimacy of the actions by the investigative body.

ON APRIL 30 the **Vanadzor branch of the Helsinki Citizens Assembly** won a case versus the administration of Vanadzor city at the court of primary jurisdiction of Lori region. The reason for the suit was the refusal of Mayor Samvel Darbinian to provide HCA Vanadzor branch copies of all the resolutions passed by the municipality and the Senior Council of the community in 2002-2003. According to the head of HCA Vanadzor branch Artur Sakunts, the Mayor referred to the provision of the RA Law “On Legal Acts”, by which the legal acts for internal use and personal purpose are only provided to their addressees. The remaining documents, as the Vanadzor administration head said, were published in the periodical books of communal legal acts. The human rights activists were unable to find them even at the municipality itself. Thinking that the representatives of the local authorities violated the RA Law “On Freedom of Information” the HCA Vanadzor branch filed a suit. During the hearing the respondent did not have objections on the essence of the case but he noted that out of 2,614 resolutions a part cannot be provided as it contains information not to be publicized. To get the remaining documents the plaintiff must pay a local duty of 1,000 drams (about \$2) for each copy. The court obliged the municipality to provide the organization with copies of all the resolutions of city administrations and the Senior Council of the community for 2002-2003 except those constituting a secret. The total amount of duty to be paid for the documents was defined to be only 1,000 drams. Yet on June 10 the same judicial body passed a resolution of clarifying the ruling on the suit. According to the resolution, the HCA Vanadzor branch was to pay the duty of the same 1,000 drams but for each copy of the documents requested. According to the head of HCA Vanadzor Branch Artur Sakunts, this resolution of the judge “in essence, contradicts the previous ruling”. Besides, the amount and the terms of payment for information, provided by the information holder, are defined by the RA Law “On Freedom of Information”, and not by the resolution of the Council of Senior Citizens, referred to by the court of primary jurisdiction of Lori region. HCA Vanadzor branch challenged the clarification with the RA Court of Appeals, getting a positive ruling. The Court of Appeals recognized this clarification to be illegitimate. In other words, and thus the city administration was to

provide the HCA Vanadzor Branch with all the documents requested for 1,000 drams.

MAY 2004

ON MAY 3 in Yerevan “Partnership for Open Society” initiative that unites around 50 public organizations of Armenia, held a round table meeting on the World Press Freedom Day. At the event the statement of the initiative on for this international journalistic holiday was publicized. The document analyzed the media situation in Armenia and suggestions on overcoming the current problems were expressed. The representatives of NGOs, membering in the “Partnership..” again demanded the law enforcement bodies “to find and punish the individuals who violently attacked journalists on April 5 and April 13 as strictly as the law stipulates”, to remove from articles on libel and insult from the Criminal Code “as being dangerous for the freedom of expression, refraining from their application till this is accomplished“. “We state that we will continue to advocate the improvement of the media-related legislation, the establishment of real freedom of expression and truly independent media”, the statement of the Partnership for Open Society said.

ON MAY 3 on the World Press Freedom Day in Yerevan a demonstration and rally to support “**A1+**” TV company were held. About 150 participants of the action passed from the House of Press to Charles Aznavour Square. About 150 procession participants moved from the House of Press to Charles Aznavour square. At the rally on the professional day the demands of the journalistic community to the authorities of the country: to hold a competition for allotting the vacant frequencies and to attract the representatives of the public organizations in the rating assessment of the bids.

ON MAY 4 the representatives of the traffic police of Kotayk region of Armenia impeded the work of the shooting crew of “**Aravot**” TV channel. This was reported on May 5 by “Aravot” daily. On the eve of an opposition rally in the capital the TV journalists tried to check whether the complaints of citizens that the policemen restrict their freedom of movement on the main routes to Yerevan were true. According to “Aravot” daily, at the moment of shooting the car with the TV channel staff was stopped by the representatives of the Nairi Division of traffic police who called their boss to help. Arriving on site, the head of Nairi Division of traffic police Avetik Abrahamian, as the newspaper wrote, first demanded the journalists to give him the tape and then made them erase the shots on it.

“Aravot” TV company (previously “Kentron”) had changed the owner and its name in April and had taken a temporary time out till May 10, to go on air with a new image. The TV channel also changed its director. On April 24 the Chief Editor of “Aravot” daily **Aram Abrahamian**, was appointed to this position. Despite the assurances of Aram Abrahamian that he would continue to assist the return of “A1+” TV company on air (Abrahamian hosted “PostScript” program on “A1+”), his consent to head “Aravot” TV encountered very negative response from “A1+” management. (Two years ago, by the decision of National Commission on Television and Radio the opposition channel “A1+” lost the competition for its frequency to “Kentron”, presently “Aravot” TV.) On its behalf the Board of opposition party Armenian National Movement (ANM) announced that it refuses to appear on the air of “Aravot” TV. On May 6, with a reference to anonymous source in the ANM Board, “Haikakan Zhamanak” daily reported that the governing body of the party did not want to participate in the imitation of freedom of speech. In an interview to “Chorrord Ishkhanutyun” newspaper of May 7 Aram Abrahamian expressed his perplexion at the fact that “a political force refuses to state its position on live air out of fear that it would be an imitation of freedom of speech”. “In any case I regret that this part of the political spectrum will not be represented on our channel, however, I am positive that this is temporary”,

Aram Abrahamian added.

On July 16 Aram Abrahamian on the pages of the daily he edits, “Aravot”, announced his resignation from the position of a director of “Aravot TV” company. “My step is in no way related to politics, in which I never engaged and am not going to engage in”, Aram Abrahamian wrote in “Aravot” daily. “In the course of my work as a head of TV company nobody ever exercised political pressure on me, introduced censorship or expressed dissatisfaction with the content of the news and program. On the contrary, I was asked to stay. However, I will not stay since I am discontent with the unserious attitude of the shareholders to their property”. The discontent of Abrahamian was caused by the financial management of the new owners of the TV company. According to the journalist, on July 8 he addressed the main shareholder of the TV company, the RA National Assembly deputy Murad Guloyan with a letter, where he “gave a detailed description of the financial situation of the TV company” and proposed to take urgent measures to rectify it. “I am not going to demand money for salaries and maintenance of an enterprise you own. I refuse my salary for June. And I am enclosing my resignation notice to the letter. If the events ensue as I expect them to develop, on July 16 I will narrate the reasons for my resignation in ‘Aravot’”, the letter ended saying. To follow the appeal of the shareholders and to continue working “somehow” (that is, making low-quality production), in the opinion of Aram Abrahamian, would lead to his professional discreditation.

The position of the head of “Aravot TV” was filled by one of the leading journalists of the TV company Petros Ghazarian, the author and host of “Urvagits” program. According to Petros Ghazarian, the TV channel will soon return its old name “Kentron”. The logotype of “Aravot” daily remained on the air of the TV channel for four months only and was further replaced with the old “Kentron” logo on September 13, two months after Aram Abrahamian resigned.

ON MAY 6 In compliance with the RA Law “On Mass Communication”, the National Commission on Television and Radio (NCTR) ratified **the Procedure on Accrediting Journalists in NCTR**. The document was based on the Model Procedure for Accrediting Journalists in State Administration Bodies (*see above*). According to the provisions of the Procedure, the results of National Commission activity must be reported no less than once per two months, also by placing information on NCTR web site. And no less than once a half year, NCTR Chairman must give account of the accomplished work at a press conference. The document set a valid period for accreditation and its quotas: no less than one year, as well as per one journalist and photo correspondent/TV cameraman from each media outlet, but for the case when the person responsible for accreditation “is previously agreed with on the participation of a larger number of journalists, photo correspondents and cameramen will not limit participation opportunities for other accredited journalists”. Visit to NCTR by an accredited media representative, beyond scheduled activities, is also to be agreed with the person responsible for accreditation, appointed by National Commission Chairman.

SINCE MAY 21 “Ashtarak TV” and the homonymous newspapers operating in Ashtarak, Aragatsotn region, had to interrupt their activities because the building where the editorial offices of these media rented premises was locked by its owner, Director of “Aragatsotn Arspas” LLC Sargis Amirian. In the opinion of the management of “Ashtarak TV”, the conflict may be related to a number of critical articles to the address of Sargis Amirian, published in the newspaper.

Earlier, by a decision of the court of primary jurisdiction of Aragatsotn region a suit of

Aragatsotn Prosecutor's Office versus "Ashtarak TV" on the recovery of the debts of the latter for not complying with the tax liabilities was secured. In April "Ashtarak TV" appealed to the same court with a suit versus the regional Prosecutor's Office to stop the arrest on the property, imposed by the officer of the court to execute the court ruling. The demand of the TV company was motivated by the fact that some of the arrested property belongs not to "Ashtarak TV" but to private persons and organizations. In particular, the editorial office used the equipment of Internews Armenia public organization. The latter addressed the court with a request to be recognized as a third party on the case. On June 7 the petition of the organization was secured. At the session of June 9 Internews Armenia presented to the court documents, confirming that a part of the property registered and arrested is owned by itself. On June 18 the suit of "Ashtarak TV" was partially secured: the court resolved to release the property owned by Internews Armenia.

On October 7 at the session of the National Commission on Television and Radio it was resolved to suspend the broadcast license of "Ashtarak TV" till August 1, 2005. This request was grounded by the head of the channel Vahram Botsinian on his long-term foreign trip.

JUNE 2004

ON JUNE 8 the press-conference of the director of "A1+" TV company Mesrop Movsesian and the Chairman of the International Union of Lawyers Tigran Ter-Yesayan, representing "A1+" in court disputes was held. The journalists were informed about the situation with the suit that the TV company had filed with the European Court of Human Rights. The suit of "A1+" founder "Meltex" LLC versus Republic of Armenia, accepted by European Court on November 1, 2002, challenges the decisions of the Armenian court jurisdictions on the legitimacy of the broadcast licensing competitions held by the National Commission on Television and Radio. (Deprived of air on April 2, 2002, "A1+" TV company took part in 8 broadcast licensing competitions with no success, and in the same unsuccessful manner was challenging the results of almost all these competitions in the court bodies of the country). The claims of the "A1+" founder to the RA Government are grounded by the violation of Articles 10 and 6 of the European Convention on the Human Rights and Fundamental Freedoms, guaranteeing the right to freedom of expression and the right to fair trial. According to "A1+" representatives, the European Court addressed the Armenian Government an enquiry, made of 4 questions and a demand to justify the previous rulings on "A1+" case. The answer to this enquiry was to be submitted by the Government till September 20, 2004. On October 12, in an interview to "Aravot" daily, Tigran Ter-Yesayan stated that on October 4 the Government of Armenia answered the inquiry of the European Court. "A1+" founder, in his turn, presented to the European Court its counter-arguments to the response of the Government. The hearings on this case did not start in the European Court until the end of 2004.

ON JUNE 9 the National Assembly of Armenia passed in the second hearing and finally the draft law of amendments and additions to the **RA Criminal Code**. The draft amendments to the Criminal Code were initiated by the Government and presented at the parliament session of June 7-9 by the RA Minister of Justice David Harutiunian. The amendments in the Criminal Code referred also to the provisions on libel and insult (Articles 135, 136 and 318). According to the approved amendments, the maximal punishment for libel was a fine of 300-1000 minimal wages or imprisonment for up to one year (previously - up to three years). The maximal punishment for insult is a fine of 200-800 minimal wages, and the new edition of the Criminal Code stipulated no imprisonment in this case (previously up to one year). The maximal sanction for insult of authority

representative was defined to be a fine of 300-1000 minimal wages or imprisonment for up to a year (previously - up to two years). The maximal sanction for insult of authority representative was defined to be a fine of 300-1000 minimal wages or imprisonment for up to a year (previously - up to two years). From Articles above clauses for a stricter punishment for libel/insult made in public speeches, publicly demonstrated works or media were removed, too.

Meanwhile, as far back as on June 17, 2003, in the open letter to NA Speaker Arthur Baghdasarian the heads of six diplomatic missions active in Armenia, eleven international organizations and local journalistic associations, including Yerevan Press Club, expressed concern with regard to a number of provisions in the Criminal Code, which “seriously threaten freedom of expression in Armenia”. In the opinion of the signatories, the solution of this issue “should be found in the field of civil, not criminal, law”, or, at least, “the Code should not provide for imprisonment.” The need to decriminalize libel and insult was also pointed out later, on local and international levels.

Thus, the amendments to the Criminal Code adopted significantly mitigated the responsibility for libel and insult; however, they do not fully comply with the expectations of the international organizations and the civil society. The provision, ensuring greater protection of officials versus common citizens is also unacceptable.

ON JUNE 10 at the Journalists Union of Armenia the press-conference of Vanadzor non-governmental information organization “**Media-Group**” was held on the litigation of this organization versus the State Social Security Fund. The dispute of the parties started in 2003, when “Media-Group” with the assistance of “World Learning” international organization implemented a project “Strengthening of Relations between Organizations and Vanadzor Community”. The representatives of State Social Security Fund after the financial audit recognized the volunteers of “Media-Group” to be paid employees and demanded that the organization make appropriate social security payments and pay a penalty. “Media-Group” challenged this demand with the RA Commercial Court. On December 17, 2003 the suit was secured. State Social Security Fund on its behalf challenged the ruling with the RA Court of Cassation, which resolved to return the case for a new investigation on February 13, 2004. On June 3 the second jurisdiction obliged “Media-Group” to make the necessary social security payments, but without the penalty. “Media-Group” challenged the latter decision with the Court of Cassation, leaving it unchanged at July 7 session. On July 7 the employees of Vanadzor organization held a protest action before the building State Social Security Fund in Yerevan.

Commenting on the situation, representative of “Media Group” Edmon Marukian noted that, according to the Armenian legislation, the ruling execution was to start against the NGO; its property would be arrested to be later sold from an auction. As Marukian said, the organization did not have any funds to cover the liabilities to the State Social Security Fund. This is an amount of about 500,000 drams (about \$ 1,000), including the execution costs. Edmon Marukian also emphasized that “Media Group” will continue to protect its rights and will probably apply to the European Court of Human Rights.

ON JUNE 21 deputy of the RA National Assembly, the Head of the Association of Political Scientists of Armenia Hmayak Hovhannisian addressed the RA General Prosecutor Aghvan Hovsepian with a petition to institute criminal proceedings against the owner and the head of “**ALM**” media holding **Tigran Karapetian** for incitement of national hatred, libel and insult. The reason for this was the authorship program of Tigran Karapetian “Price of Question”, aired by “ALM” TV company on June 15. In particular, as the NA deputy

wrote, the “ALM” head said that Hmayak Hovhannisian “behaves as a Jew or made a Jewish step”, as well as called him a “pickpocket and a liar”. As a proof, the videotape of the program was enclosed to the application. Tigran Karapetian himself publicly denied the anti-Semite nature of his utterance and noted that he could bring facts to substantiate the remaining wording by facts. On July 9 Hmayak Hovhannisian again addressed a letter to the RA General Prosecutor. This time the NA deputy proposed a preventive punishment of imprisonment for Tigran Karapetian, saying that “his being unpunished and the style of management of “ALM” TV company contribute to the revelation of fascist trend that before did not exist in Armenia”. On his behalf Tigran Karapetian said that he will only answer the accusations of Hmayak Hovhannisian in court.

Criminal proceedings were not instituted: RA National Assembly deputy and head of the media holding were summoned to the General Prosecutor's Office, where they made a reconciliatory agreement.

JULY 2004

ON JULY 8 the National Commission on Television and Radio passed a decision to fine “**Tsayg**” TV company of Gyumri. The fine of 100,000 drams (about \$ 190) was imposed for broadcasting on May 31 and June 14, 2004 on the air of “Tsayg” issues of “Okna” show program of Russian TNT channel. By doing this “Tsayg” violated the requirements of Article 10 of the RA Law “On Television and Radio”, namely - rebroadcast programs of foreign company, without an appropriate agreement, and did not give a prior notice of this to NCTR.

AUGUST 2004

ON AUGUST 24 in Tsaghkadzor (Kotayk region) another attack on journalists was made. The correspondent of “**Photolure**” photo news agency **Mkhitar Khachatrian** and the correspondent of “**Aravot**” daily **Anna Israelian** arrived in Tsaghkadzor to prepare a piece on the forest cuttings next to the sports complex to build summerhouses for senior officials. When Mkhitar Khachatrian, having finished the shooting of the sites, returned to the Writers’ House, he was awaited by a group of four unknown individuals, supposedly, the guards of the elite summer houses. One of them, with his hair cropped, started a verbal scuffle with the photojournalist, accusing him of trespassing and demanding that he give up the memory chip of the digital camera. Not confining himself to swearing, the “skinhead” tried to snatch the journalist’s camera in front of the guests, staff and visitors of the Writers’ House. The skirmish that ensued moved to the office of the director of the Writers’ House and eventually, the “skinhead” managed to take away the camera and remove the memory chip. After this the strangers left the site of the incident. Mkhitar Khachatrian was injured on his neck, throat, arms and back. Nevertheless, the photojournalist did not intent to address the law enforcement bodies, since, as he said, he did not believe that those guilty would be punished.

On the same day, August 24, the Journalists Union of Armenia and Yerevan Press Club adopted a statement condemning the repetition of violence against journalists and called again to find and punish those guilty. The signatories to the statement once again stated that “the violence against journalists and the obstruction of their work is a consequence of the lack of punishment to those who were to blame for the previous incidents”. The statement of YPC and the Journalists Union of Armenia was also joined by the participants of seminar “Judicial Protection of Human Rights in Armenia and the Media Involvement in the Process”, held in Tsaghkadzor on August 26-28, as well as a number of journalistic

organizations and media. Condemnation of the incident in Tsaghkadzor was also voiced by the Writers Union of Armenia, the Committee to Protect Journalists (CPJ) and the International Press Institute in Vienna (IPI).

The journalistic community responded to this, yet another violent act with a number of actions. The next day, on August 25 "Aravot" daily published a report of the incident that was accompanied by empty frames with titles instead of the intended photographs of the cut forest. On August 28 representatives of several dozens of Armenian media, public, also journalistic organizations, went to Tsaghkadzor and made the same route that Mkhitar Khachatrian while shooting. On August 31 articles on the trip and the forest cuttings in Tsaghkadzor with photographs were published by many leading Armenian newspapers.

On August 26 the RA General Prosecutor's Office issues a press release, notifying that criminal proceedings were instituted on the facts of public disorder and obstruction of the legitimate professional activities of the photojournalist Mkhitar Khachatrian and journalist Anna Israelian. The proceedings were instituted by the Department for Protecting the State Interest of the RA General Prosecutor's Office by Part 1 of Article 164 ("Obstruction of Legitimate Professional Activities of a Journalist" and part 1 of Article 258 ("Public Disorder") of the RA Criminal Code. Besides, the attacker has been identified. By the data of the Prosecutor's Office this was a resident of Yerevan Gagik Stepanian, born in 1961, brought to the Prosecutor's Office for interrogation. Later, the two-time ex-convict Gagik Stepanian was imprisoned as a preventive punishment.

On September 6 the investigation on this case was completed, and on the same day, September 6, the materials of the preliminary investigation were directed to the court of primary jurisdiction of Kotayk region, Hrazdan city. Even before the start of the litigation the defendant compensated the material damage incurred by the photojournalist, paying the cost of the memory chip, \$ 250. The hearings started on October 7, and at the next session of October 11, the court recognized Gagik Stepanian to be guilty and announced the sentence - six months' imprisonment.

Commenting on this case, YPC Weekly Newsletter (*October 8-14, 2004*) noted, "(...) Of all the assaults on media representatives for the first time those at fault were charged with an article of obstructing journalistic activity and were sentenced to custody. (...) On the other hand, similarly to the previous investigations of such incidents, a number of questions come up. Why is it that media representatives are attacked by several people, but only one or two are brought to court? Why is the investigation only confined to finding the executors, mostly unemployed, who state they just happened to be passing there by a coincidence? Why in none of the cases neither the investigators nor the court is able to involve those, whose interests are so fervently protected by people doing the dirty work? And, last but not least, why during the process the defendants spit out threats and curses to the journalists in the courtroom? Gagik Stepanian, too, before going to jail, promised to take his revenge on the journalists after his release. And actually, Stepanian, who has now been convicted for the third time, has all chances to be released soon. Having been arrested in late August and sentenced in October (the sentence will come into force in 15 days), Stepanian has already spent half of the sentence in prison, since one day of preliminary custody is equal to one day and a half of imprisonment. And it is quite possible to discard even the remaining three months: according to Armenian legislation, upon the expiration of one-third of the sentence, the convict can appeal for an early release".

Our suppositions came true: on October 26 Gagik Stepanian got an early release.

ON AUGUST 31 Chairman of “Investigative Journalists” NGO, *Edik Baghdasarian* was summoned to RA Police Center for investigation concerning application by the former head of Medication and Technical Service Department of RA Ministry of Health, Artashes Bisharian. The application called for starting criminal proceedings against the journalist for insulting honor and dignity. The reason was Edik Baghdasarian’s investigation published in the press, about Artashes Bisharian, then the head of department, deliberately allowing a big lot of medications, received as humanitarian aid, to have an expired date. According to the applicant, it was not true.

As Edik Baghdasarian asserted, back in 2003 RA General Prosecutor’s Office started criminal proceedings against Artashes Bisharian on disclosing a large number of expired medications in the Ministry of Health. However, he was not even interrogated. On his behalf, Mr. Bisharian refuted it. Nevertheless, shortly before applying to the police, he was dismissed from office.

According to the head of “Investigative Journalists”, in the police department he refused to answer the questions of the investigator since all the facts were already stated in his articles. On September 9, the police investigator notified Edik Baghdasarian that no criminal proceedings would be instituted against him.

SEPTEMBER 2004

ON SEPTEMBER 4 during the opening of “CS Media City” holding, Armenian President Robert Kocharian by pushing a button launched a system capable of transmitting 50 TV channels in GHz frequency spectrum. This system (referred to as “supersystem”) and its owner, the previously unknown “A UP” company, had been advertised on “Armenia” TV channel. The launch gave a rise to a torrent of publications in Armenian press that questioned the arguments usually quoted as motivation for depriving “A1+” TV company of air.

On September 9 “Aravot” daily published an article by observer Anna Israelian “There Goes the Supersystem!”, which quoted the Head of Licensing and Methodology Department of National Commission on Television and Radio Ishkhan Vardanian: “Presently NCTR has no vacant GHz frequency. We did not provide frequency in this spectrum to any company. “A UP” company, whose commercial can frequently be seen on air, is unknown to us, it has no license. (...) The Commission has already warned the appropriate bodies of the need to take steps to stop the illegal broadcasting.” The question of why then in this spectrum AATV company is broadcasting nowadays was answered by Mr. Vardanian to the effect that AATV has had a ten-year license since 1997, of which it was deprived during the re-licensing of 2001, since the license was granted not for broadcasting but for other services. “However, the investments are protected by the law and if due to a law amendment economic process is obstructed, the investor has a right to continue the activities for five years. In any case, today, these frequencies are subject to licensing by competition. I find it hard, however, to predict, when the competition will be held”, Ishkhan Vardanian added. It should be noted that the list of TV and radio frequencies, received by Yerevan Press Club after an inquiry filed with NCTR, the 2501-2700 MHz spectrum in question is listed as subject to listening by competition.

The Chairman of “Investigative Journalists” NGO Edik Baghdasarian highlighted some questionable points in the activities of “Armenia” TV channel and the newly-established “CS Media City” in his article “Having Seen a Button, Do Not Press It”, published in “Aravot” daily on September 16.

The piece of Ara Meliksetian "Framing in Public" (*"Golos Armenii"* newspaper, September 18) says in particular: "Apparently, the unpleasant story of "Armenia" TV channel could have gone without a scandal, but for the particularly sensitive attention of the colleagues to the fate of another Armenian broadcaster, "A1+" TV company. Hardly any journalist would have questioned the legitimacy of the diligently advertised television novelty, presented by "Armenia", had there been no reasonable question: how come there is a frequency for a new re-broadcasting project, while none can be found for "A1+" TV company? The search for an answer to this very natural question resulted in a quite incidental disclosure of one of the biggest frauds of our reality. And it is big only because the head of the state was unwillingly involved in it." "Apparently, Robert Kocharian himself did not have suspicions on the legitimacy of the occurrence", Ara Meliksetian thinks. "He was, roughly speaking, simply framed. He was, as the saying goes, played a dirty trick on." In the opinion of the author of the article, the President was framed by "various state agencies" and the "many-faced people surrounding him", "but the worst thing that the response of the head of the state is still unknown to the public at large".

Armen Hakobian in article "The Secret Supersystem of 'Armenia'" (*"Hayots Ashkhar"* daily of September 10) named the situation in place "a scandal in the noble family". "It has become known from trustworthy sources that the head of 'Armenia' Bagrat Sargsian was yesterday summoned to the administration of the President, where he was demanded explanations on what happened", the author wrote. Besides, he noted that the broadcasting without a license, along with unconscientious advertising were criminal offences by Armenian legislation.

After the publications, advertising of the supersystem on "Armenia" TV was stopped, but soon it was resumed, appearing even in some periodicals.

The permission for re-broadcasting the channels on gigahertz frequencies was issued to "A UP" company by the Republican Telecommunications Center of the RA Ministry of Transportation and Communication. The National Commission on Television and Radio, as mentioned above, insisted to license these frequencies by competition. The dispute progressed into litigation: the suit of NCTR contained a demand to annul the permission, issued to "A UP" company by the Republican Telecommunications Center. On December 2 the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan approved the reconciliation agreement between NCTR, the Ministry of Transportation and Communication, Republican Telecommunications Center and "A UP" LLC. According to the agreement signed, the Ministry and the Republican Telecommunications Center, as one of its subdivisions, refused from claiming the 2300-27000 MHz diapason and annulled their previous resolutions on the broadcasting activities of "A UP". The right to the diapason was stipulated to belong to NCTR that assumed a commitment of announcing a competition for it.

On January 12, 2005 the National Commission on Television and Radio announced broadcast licensing competitions for frequency diapasons of 2300-2400 MHz and 2500-2700 MHz of Yerevan, the results of which should be due by spring 2005. Meanwhile, the "supersystem" started to be advertised more intensively on the New Year's eve and afterwards. The viewers were constantly informed where they could buy it and how they could get connected

ON SEPTEMBER 20 the RA Court of Appeals dismissed the suit of the resident of Khachpar village of Ararat region Marineh Gabrielian versus the Chief Editor of "**Ararat**"

regional newspaper **Karineh Ashughian** because of the absence of the plaintiff's representative from the hearings. Marineh Gabrielian had challenged with the Court of Appeals the ruling of the primary jurisdiction court of Ararat region, Masis city, of December 23, 2003, according to which the suit on compensating the material damage was also left unconsidered. Marineh Gabrielian had demanded to compensate her expenses of 125,000 drams (about \$ 220), incurred, as she alleged, during the previous litigations between the parties in 2001-2002 (see details in the report for 2003 on YPC website: www.ypc.am).

While commenting on this lengthy litigation, Yerevan Press Club noted that having taken the plaintiff's side and obliging the Chief Editor (in July 2002) to publish a refutation for the communication confirmed by 115 people, the court actually created a dangerous precedent. The plaintiff, inspired by her success, went further and was now demanding to be compensated the material damage, at the same time, strange as it may seem, not going into the trouble of either being present herself or sending a representative to the court session.

Marineh Gabrielian sent a repeated appeal to the Court of Appeals for reconsideration of the ruling by the court of primary jurisdiction on December 23, 2003. At October 21 session, the Court of Appeals dismissed the suit.

ON SEPTEMBER 23 in the vicinity of one of the markets of Yerevan, correspondent of "Haikakan Zhamanak" daily **Arman Galoyan** was assaulted. On the same day in accordance with the municipal decree the demolition of the trade stalls around the market started. Its owners, considering the action to be illegitimate, notified the editorial office of the newspaper about it. Having arrived on site the correspondent of "Haikakan Zhamanak" was recording the stories told by the trade stall owners, when he was approached by a group of men who demanded him to stop the work and leave the territory. Arman Galoyan did not obey. Some time later, a man, as the journalist thinks, one of the market employees, swearing attacked him and took the recorder away. The correspondent of "Haikakan Zhamanak" continued to make notes in his notepad and then he was attacked by another man, in the opinion of Galoyan, also of market staff, took away his notepad, tore out the pages with notes and shred them into pieces.

With regard to the occurrence an appropriate application was filed with the Center Division of the RA Police and the incident was covered by "Haikakan Zhamanak" the next day, on September 24. The participants of the incident were brought to the police division and interrogated. The Center Division of the RA Police instituted criminal proceedings for part 1 Article 164 of the RA Criminal Code ("Obstruction of the legitimate professional activities of journalist"). The recorder owned by Arman Galoyan is now in police as evidence.

The investigation did not manage to identify one of the assaulters, for this reason a part of the case was separated into different proceedings. The other assaulter was Yerevan resident, the market supervisor Armen Vardanian. The investigation also determined that one month before the incident the same Armen Vardanian in the neighborhood of the same market attacked two residents of Yerevan. The two cases were united in one. Thus, Vardanian was charged on two episodes: by Article 164 as mentioned above and by Article 258 of the RA Criminal Code ("Public disorder"). The preventive punishment for the defendant was selected to be the obligation of not leaving the place of permanent residence.

In mid-November, the case was directed to the court of primary jurisdiction of Center and

Nork-Marash communities of Yerevan, where the hearings started on December 20. The defendant failed to be present at opening session of the trial on December 20, and the court ruled to bring him to court by force. At the hearings of January 19, 2005 Armen Vardanian pleaded guilty on both episodes. At the session of February 4, 2005, the court made its verdict. Armen Vardanian was sentenced to a year of reformatory labor. In compliance with the court ruling, he kept working at the same place but with 20% fine of his monthly wages to the state budget. Besides, Armen Vardanian compensated the price of the damaged recorder, up to 25 thousand drams (over \$50) to “Haikakan Zhamanak” correspondent.

ON SEPTEMBER 23 the international human rights organization “Freedom House” published an annual global survey of political rights and civil liberties in the world in 2003. According to “Freedom House” assessment, in terms of guaranteeing political rights and civil liberties Armenia is classed as partly free country. The report of the organization paid attention to the press freedom as well. In particular, while quoting negative examples of rights infringement, “Freedom House” notes the failure of the National Commission on Television and Radio to grant “A1+” TV company a broadcast license on April 2, 2002. The journalistic community and opposition, as “Freedom House” stresses, qualified the closure of “A1+” as “a politically motivated decision, aiming at establishing control over the media coverage in the run-up to the 2003 presidential and parliamentary elections”. In 2003, as the report said, all the bids by “A1+” to gain a broadcast license were rejected.

OCTOBER 2004

ON OCTOBER 4 in Yerevan the Partnership for Open Society Initiative, uniting about 50 public organizations, held discussions of the draft report of the PACE Monitoring Committee on implementation of Resolutions 1361 (2004) and 1374 (2004) on the honoring of obligations and commitments by Armenia (corrapporteurs Jerzy Jaskiernia and Rene Andre), to be heard on October 7 at the PACE session. At the discussion comments on the report developed by the Partnership for Open Society Initiative were presented, too.

In the beginning of the comments the Initiative pointed out the necessity for a more detailed examination of the situation in Armenia and their taking into account the opinions not only the state representatives but also of the NGO-community. “Unfortunately, lack of accurate information and thorough analysis of the situation is manifest in both the points that the rapporteurs highlighted as positive and also in those that they present as negative”, the comments read.

The omissions named were also present in the reference the corrapporteurs make to the media situation. Thus, in item 3 iii of the draft report of the Monitoring Committee it was noted that “the investigations on incidents and human rights abuses reported during the recent events, including assaults on journalists and human rights activists, were led and information was provided to the Assembly on their findings and of any legal action taken against persons responsible”. Yet, as the comments of the Partnership note, the corrapporteurs do not specify that the investigation of many such cases was stopped, and it was not conducted at all on the abuse of journalists by the police on the night of April 12-April 13, 2004. The events of April 12-April 13 were not reflected in the report at all, even though in them several journalists were injured. Only the punishment imposed on two attackers for violence against journalists on the rally of April 5, 2004 was mentioned (the punishment left the journalistic community and the public discontent, the comments noted).

In the opinion of the Monitoring Committee, the request to the National Commission on

Television and Radio to add arguments when awarding broadcast licenses, as stipulated in the last amendments to the RA Law “On Television and Radio”, would prevent “the adoption of arbitrary decisions” (item 9). The expected renewal of the composition of the NCTR, proceeding from the same amendments to the broadcast law, would contribute to the creation of “fair conditions for awarding broadcast licenses to televisions, in particular ‘A1+’” (item 11 iii). Firstly, the comments of the Partnership stressed, the mere giving additional arguments was not a guarantee for preventing arbitrary decisions. This required other methods of open and public discussion, too, also involvement of NGO representatives and experts into the process of bid evaluation, as allowed by Article 26 of the RA Law “Statutes of the National Commission on Television and Radio”. Such a proposal was made by a number of NGOs to the NCTR Chairman during the last broadcast licensing competition, however, it was rejected. Secondly, the comments of the Initiative said, the amendments to the broadcast law do not stipulate changes in the NCTR composition: they only refer to competitive appointment to vacancies. And, finally, the comments noted, the corapporteurs linked the creation of fair competition conditions with the changes in the NCTR composition, whereas attention should be drawn to its formation procedure which “does not ensure the independence of the body and makes it a tool in the hand of the executive”.

When quoting negative examples, the comments of the Partnership noted, the report of the Monitoring Committee had a number of mistakes. Thus, item 30 of the report said: “The situation regarding media still gives cause for concern. Newspapers are regularly found guilty in court and ordered to pay heavy fines for publishing defamatory articles about prominent figures in or close to the government.” Yerevan Press Club and the Committee to Protect Freedom of Expression monitor the media situation, also the media-related litigations, and during the past year, fortunately, nothing had been recorded, the Initiative stressed in its comments.

Among the most vivid examples of information lack, in the opinion of the Partnership, was the mentioning of the corapporteurs that “Kentron” TV company stopped broadcasting and was replaced by “Aravot” TV company. In reality, the comments explained, “Kentron” did not stop its activities, it only changed the air name. As the corapporteurs noted, “Yerkir Media” TV company that got a broadcast license is managed by Armenian Diaspora. In the Partnership’s comments this statement was characterized as “irresponsible”.

On October 7 at the session of the Parliamentary Assembly of the Council of Europe the draft report of the PACE Monitoring Committee was heard. At the same day, Resolution 1405 (2004) was adopted on the honoring of obligations and commitments to the CE by Armenia, the definitions of which, including the clauses on media, mostly repeated the draft report heard.

IN THE MORNING OF OCTOBER 13 in Kapan city, Syunik region, an attack was made on the Chief Editor of “**Syunyats Yerkir**” newspaper **Samvel Aleksanian**. Samvel Aleksanian informed YPC that three men, one of which (he did not know the other two) was Khachik Asrian, the Chairman of “Syunyats Artsivner” (“Eagles of Syunik”) NGO. Khachik Asrian expressed a wish to speak to the Chief Editor in private, and when the newspaper staff member left the room, started to question Samvel Aleksanian as to why “Syunyats Yerkir” published critical articles on the activities of the Governor of Syunik region and the Prime Minister of Armenia. Not waiting for the end of the explanations, Asrian hit the Chief Editor in the face with a fist, and then started to use the stick he had brought. Having then devastated the editorial office, the attackers demanded that both its rooms be vacated in an hour, threatening otherwise to continue the violence. After this

they left, taking with them the mobile phone of the Editor. Samvel Aleksanian immediately called the Syunik Regional Department of the RA Police. The policeman who arrived on site recorded the incident and the forensic expert made an examination of the injured. On the evening of the same day the Police staff returned Samvel Aleksanian the mobile telephone and informed that criminal proceedings have been instituted by Article 258 ("Public Disorder") of the RA Criminal Code. On October 13 Samvel Aleksanian reported the incident to the President of Armenia, the RA General Prosecutor, the OSCE Office in Yerevan, the media.

It should be noted that two weeks before the occurrence, on September 28, Samvel Aleksanian was dismissed from the position of press secretary of the Governor of Syunik region Suren Khachatryan. The Chief Editor was also demanded to vacate the offices that "Syunyats Yerkir" newspaper used in the building of the regional administration.

Samvel Aleksanian related everything that happened to him lately to a series of critical publications of the newspaper.

According to "Haikakan Zhamanak" daily (October 14, 2004), the Chairman of "Eagles of Syunik" Khachik Asrian in a telephone conversation with the regional correspondent of the daily denied having beaten Samvel Aleksanian. He said that he had only notified the Chief Editor that the rooms the editorial office used were rented to his organization and had to be vacated. The telephone conversation with Khachik Asrian occurred when he was at the police station. Meanwhile, Samvel Aleksanian informed YPC that he received no claims or documents confirming the lease from either the hotel owner, or the Chairman of "Eagles of Syunik".

On October 14 with regard to the attack on the Chief Editor of "Syunyats Yerkir", Yerevan Press Club, the Journalists Union of Armenia and the Committee to Protect Freedom of Expression issued a statement, saying, in particular: "Apparently, the lack of punishment in a number of recent incidents of violence against media representatives or else the mild punishments imposed on their executors leave an impression that it is possible to intimidate journalists, contrary to the provision of the RA Law "On Mass Communication" that "a journalist engaged in legitimate professional activities is protected by the legislation of the Republic of Armenia as an individual on public duty".

On October 14 "Hayastani Hanrapetutiun" newspaper made an editorial comment on the report of the Kapan incident: "HH" condemns the assault on the journalists and expresses confidence that those responsible will be punished, because the journalist on duty must feel protected."

In the interview to "Aravot" newspaper, December 12, 2004, the Chief Editor of "Syunyats Yerkir" stated about applying to RA General Prosecutor's Office with the request to withdraw the investigation group of Syunik regional division of RA Police. According to Samvel Aleksanian, pressure was exerted on the investigators and the process of investigation by the Governor and Prosecutor of Syunik, also by state governing bodies. By the order of RA General Prosecutor Aghvan Hovsepian, the case was submitted to the prosecutor's office of the neighboring region - Vayots Dzor. Again in "Aravot" (December 25, 2004), Chairman of "Eagles of Syunik" Khachik Asrian, accused of assault by Samvel Aleksanian, again refuted accusations on his behalf and advised to "wait patiently for the investigation to be completed".

The investigation on the case was not completed by the end of 2004.

ON OCTOBER 15 Radio Free Europe/Radio Liberty issued a press release on the withdrawal “Azatutiun” (“Liberty”) program produced by the **RFE/RL Armenian Service** from the air schedule of “**Kentron**” TV company. According to the Director of the Radio Liberty Armenian Service Hrair Tamrazian, the first issue of this 30-minute analytical program was aired on October 10 and repeated on October 11. On October 13 the Director of “Kentron” Petros Ghazarian informed Mr. Tamrazian, that the airing of the subsequent issues of the program would be “indefinitely suspended”. As it is noted in the press release the management of the TV company did not explain the reasons for such a decision. The first issue of “Azatutiun” featured a report from Strasbourg on the debates at October session of the Parliamentary Assembly of the Council of Europe on the honoring of commitments to the CE by Armenia and exclusive interviews of the RA Foreign Minister Vardan Oskanian and the newly appointed US Ambassador in Armenia John Evans on relations between Armenia and Turkey. Mr. Tamrazian expressed his concern over the suspension of “a very successful TV show” “for unknown reasons” and called on Armenian authorities to investigate into the matter. “I hope that “Kentron” and RFE/RL will continue in a joint project that was eagerly awaited by many viewers and listeners in Armenia”, the head of the Radio Liberty Armenian Service stressed. On his behalf, the Director of “Kentron” Petros Ghazarian told YPC that he “sees no conflict in what has happened, the TV company and the Radio Liberty Armenian Service remain partners”, however, there were certain financial problems that call for a solution.

On October 19 the President of RFE/RL Thomas Dine addressed a letter to the President of Armenia Robert Kocharian, in which he urged the head of the state “to denounce this contemptible Soviet-style act, and to help return “Azatutiun” on air”. Thomas Dine asserted that he is “determined to get “Azatutiun” back on air and will make every effort to make it happen - including raising the issue with the Bush Administration, the US Congress, the Council of Europe and non-governmental organizations worldwide”. The Radio Liberty press release with this letter also stated that despite the lack of explanations on behalf of the “Kentron” administration, there are all reasons to suppose that the TV company “was pressured to suspend further broadcasts of the program, either by official interests or local media competitors”.

The removal of “Azatutiun” (“Liberty”) program, produced by Radio Liberty Armenian Service, from the air of “Kentron” TV company, caused much debate in the press. On October 22 “Hayots Ashkhar” newspaper published the response of the Spokesman of the RA President Ashot Kocharian to Thomas Dine under the heading of “Ultimatums are Unacceptable”. In the letter to the head of Radio Liberty amazement was expressed at the fact of addressing the President per se, since “Kentron” is a privately-owned TV company and the decision about the discontinuation of “Azatutiun” program “was made by its owner and management without any official pressure”. Noting that the RA Law “On Mass Communication” excludes any possibility of state interference with the professional activities of media, Ashot Kocharian reminded that “the authorities have always contributed to overcoming all the existing problems related to Radio Liberty broadcasting on the air of the Public Radio of Armenia”. “We find the letter written as an ultimatum unacceptable. You, unfortunately, still operate with “Cold War” categories of the East-West confrontation times”, the address of the President's Spokesman ended up saying.

A day before, in an interview to “Aravot” daily of October 21, the Director of “Kentron” Petros Ghazarian announced that the decision about discontinuing the broadcasts of “Azatutiun” was made by the owner of the TV company and himself: “For me this is primarily a commercial problem. I have agreements and I cannot disclose all the details,

because if I violate the commercial agreement with any one (in this case this refers to the representative of Radio Liberty), I will lose the confidence of others."

On October 21 "Hayots Ashkhar" daily published an article titled "Why the Head of Radio Liberty Raised Noise", telling about another program of Radio Liberty Armenian Service "Nothing but the Truth", shown on September 28, 2004 on the air of another Yerevan TV company, "Shant". In the article the head of "Shant" TV Artur Yezekian said, in particular, that he and the Director of Radio Liberty Armenian Service Hrair Tamrazian engaged in negotiations on various joint projects, also on the creation of a weekly newscast. However, according to Artur Yezekian, the TV company was unable to accept this proposal for a number of reasons (including the technical and financial ones). As to the only issue "Nothing but the Truth" program, its preparation, as the head of "Shant" said, was placed "actually on the TV company and only the host and the producer were from Radio Liberty". "Aravot" newspaper, in its piece of October 22, stated that "Shant" TV company was paid \$ 5,000 for the production of "Nothing but the Truth". "This amount is almost twice more than the one TV companies are paid for such programs", "Aravot" wrote. On October 23 the same "Aravot" informed about the proposal of the head of "A1+" TV company Mesrop Movsesian to use the technical facilities and other resources of "A1+" "that has been deemed to idleness" - to solve the problems that other channels encountered when producing the programs of Radio Liberty. "If this is only an issue of production, "A1+" is willing to make TV programs for Radio Liberty, even free of charge", Mesrop Movsesian said.

The press also voiced a version that the Chairman of the Council of Public TV and Radio Company Alexan Harutiunian might have something to do with the failures of Radio Liberty TV programs. He was said to be obstructing the airing of the TV programs on other channels so as to get this project for the Public Television of Armenia. In an interview to "Golos Armenii" newspaper of October 23 Alexan Harutiunian rejected this supposition, saying that he had nothing to do with the presence or absence of Radio Liberty from other channels. He also confirmed that PTA and Radio Liberty discussed the possibility of going on the air of Public TV. "Thus, for me such talks were very unexpected and insulting. Particularly, when this was related to my alleged demands of money for the airtime provision. This simply could not happen. Radio Liberty has no budget for TV programs for myself or someone else to await money from that. Moreover, the radio station itself expected assistance from us. It expected us to help it go on air", the Chairman of the Council of Public TV and Radio Company said. The question of the newspaper as to whether there was a probability that Radio Liberty would have a program on PTA, Alexan Harutiunian answered that any program "is born when all the necessary conditions are in place, from human resources to technical facilities".

SINCE OCTOBER 16 "AR" TV company stopped its broadcasts. As YPC was told by the Director of "AR" Edgar Manukian, the pause was due to the need for technical re-equipment of the channel. Edgar Manukian denied the persistent rumors that the suspension of "AR" activities was related to the forthcoming sale of the channel to the well-known businessman, the President of "Mika" company Mikhail Baghdasarov. In late 2002 the TV company was acquired by another, equally well-known entrepreneur Hrant Vardanian, the President of "Grand Holding" company and the owner of another TV company, "Hayrenik TV". On November 21, "AR" resumed its broadcasts.

ON OCTOBER 26 "Reporters Without Borders" (RSF) international organization published its third worldwide press freedom index. The study was conducted in 167 countries of the world and based on events between September 1, 2003 to September 1, 2004. RSF index

was compiled by surveying 14 partner organizations and 130 correspondents of RSF, as well as journalists, researchers, lawyers and human rights activists. The respondents were assessing the press freedom in each country with a questionnaire compiled by RSF and including 52 criteria: ranging from various forms of pressure on journalists and media to legislative restrictions, the behavior of authorities towards the state-owned media and foreign press. Main obstacles to the free flow of information on the Internet were also taken into account. In the opinion of RSF, press freedom was threatened most in East Asia and Middle East, where “freedom of media and the safety of journalists are not guaranteed”. Thus, the continuing war in Iraq had made it “the most deadly place on earth for journalists”: 44 journalists were killed there since the fighting started in March 2003. Similarly to the previous research, the bottom lines are taken by North Korea (167th this time) and Cuba (166th), again named by RSF to be “the biggest prison for journalists”, second only to China (162). The greatest “haven of peace for journalists” was recognized to be Denmark, Finland, Iceland, Ireland, the Netherlands, Norway, Slovakia and Switzerland that were sharing the top line in RSF rating. All members of European Union were among the 40 freest countries. The remarkable progress made by Turkey (113) with its legislation with a view to joining the EU had still not translated into a significant improvement in press freedom in practice, RSF thought. Among the former Soviet Union countries the press freedom situation was most favorable in Latvia (10), Estonia (11) and Lithuania (16). The Baltic countries followed, at a great distance, by Moldova (78), Armenia (83), Georgia (94), Tajikistan (95), Kyrgyzstan (107), Kazakhstan (131), Azerbaijan (136), Ukraine (139), Russia (140), Uzbekistan (142), Belarus (144) and Turkmenistan (164). The drop in Azerbaijan’s rating (that had taken the 113th line in the previous study) was said by RSF to be a result of “a decline in press freedom since October 2003 presidential election”: “Around 100 journalists were physically attacked and detained during the rioting that followed the polls. One of them, who was also the leader of an opposition party, was sentenced to five years in prison.” Georgia’s fall from 73rd (in the previous study) to 94th line, in the opinion of “Reporters Sans Frontieres”, was due to “unrest in the autonomous republics of Abkhazia and South Ossetia, which gave rise to press freedom violations”. Thus, this time Armenia got ahead of its neighbors in South Caucasus region. However, what factors allowed to improve the press freedom in our country and enabled it to rise by 7 points (from the 90th to 83rd line) since the last time remained unclear. The study presented on the RSF web-site did not say a word on that.

ON OCTOBER 27 in Tsaghkahovit village (Aragatsotn region) the head of Aragats fire prevention department Gagik Barseghian and his deputy Nraz Aloyan visited the editorial office of regional “**Aragats Ashkhar**” newspaper to have a “heart-to-heart talk” with the Chief Editor **Vardevan Grigorian**. As a result of a fight that ensued Vardevan Grigorian was injured, the editorial property was damaged. As YPC was told by the Chief Editor of the newspaper, the reason for the incident was “The Poor Firemen Have Nothing” article (“*Aragats Ashkhar*”, October 1-15, 2004), in which the actions of the fire force during a fire at a villager’s house were criticized. Vardevan Grigorian also stressed that this was not the first attack on the editorial office by Gagik Barseghian: it also happened in July, 1999, after a similarly critical publication on the local fire force. “Then we displayed generosity and did not get the case to the police, even though we know that the head of the fire prevention department received an administrative punishment”, the Chief Editor said.

On October 29 Yerevan Press Club, Journalists Union of Armenia and Committee to Protect Freedom of Expression issued a statement condemning the attack on the Chief Editor of “Aragats Ashkhar”. “This was already the second case of violence against regional media representatives in the course of October and comes to prove the point of our previous statements - that the lack of punishment gives rise to new crimes, and their

wave has now started to cover the regions of Armenia”, the statement of the three journalistic organizations stressed in particular.

Vardevan Grigorian’s application on the incident was submitted to Aragats department of RA Police, to be further sent to the Prosecutor’s Office of Aragatsotn region, which refused to start criminal proceedings on November 17. At the same time, regional prosecutor’s office sent a statement about the offense by Gagik Barseghian to the authorities of the Department on Emergencies of Aragatsotn region. In 1-10 December, 2004 issue of “Aragats Ashkhar” expressed its disagreement with the decision of the prosecutor’s office. On November 26, Chief Editor of the newspaper applied to RA General Prosecutor’s Office with the request for annulling this decision. On November 30, a response was issued from Inspection Department of RA General Prosecutor’s Office, stating in particular that the regional prosecutor’s office requested the materials on Gagik Barseghian. The latter ones made it clear that “the ruling on refusal to start criminal proceedings was legal”. Not accepting the conclusion of the inspecting prosecutor, “Aragats Ashkhar” (*of 10-25 December, 2004*) reported that on December 8, Vardevan Grigorian again applied to RA General Prosecutor’s Office, providing grounds this time for questioning this conclusion. According to “Aragats Ashkhar”, Head of regional Department on Emergencies made a reprimand to Gagik Barseghian. The same disciplinary penalty was stipulated for the head of the department and head of fire prevention department of Aparan city. RA Ombudsman Larisa Alaverdian viewed this disciplinary penalty as inadequate, about which she informed the Department of Emergencies of Aragatsotn region.

As of the end of 2004, the request of “Aragats Ashkhar” Chief Editor on starting criminal proceedings was not met by RA General Prosecutor’s Office.

ON OCTOBER 28 the Chairman of “**Investigative Journalists**” NGO **Edik Baghdasarian** made an address to the Head of Investigation Division of the Police Department of Center community of Yerevan Artavazd Ghazarian. The address voiced a protest against the involvement of Edik Baghdasarian as a witness on the case of assault on a leader of “Intellectual Forum” Ashot Manucharian on April 22, 2004. The resolution on this was made on September 15 by the Senior Investigator of this Police Department Arsen Ayvazian. Having reminded that he was a journalist on professional duty, Edik Baghdasarian noted in his address that after each publication on the case Investigator Ayvazian summoned him to interrogation and demanded to disclose the information sources. The head of “Investigative Journalists” further informed the Head of Investigation Division about his refusal to give testimony and to disclose information sources. “I stated this to the investigator, too, saying I am not going to disclose any source, primarily not to endanger the safety of these people”, Edik Baghdasarian stressed in his statement. His refusal to appear as witness was motivated by the journalist by Article 5 of the RA Law “On Mass Communication”, protecting the right of the journalist to non-identification of information sources. As YPC was told by Edik Baghdasarian, he was ready to bear responsibility for a refusal of testimony, since the safety of the information sources was more important for him. It should be noted that Article 339 of the RA Criminal Code (“Refusal from Testimony”) stipulates a fine of 50-100 minimal salaries or reformatory labor for up to a year or imprisonment for up to two months.

Commenting on this case, YPC Weekly Newsletter (*October 29 - November 4, 2004*) emphasized that the demand of investigative bodies to the journalist to disclose the information sources revealed a serious legal contradiction. On the one hand, Article 5 of the RA Law “On Mass Communication” foresees a possibility for journalists to preserve confidentiality of information source (Part 1, Article 5). The possibility of source

identification was only provided for in case of “a court ruling on a criminal case, so as to disclose a grave or a particularly grave crime, if the need of criminal and legal protection of the public interests is higher than the public interest in non-identification of information sources and the alternative ways of protecting public interests are exhausted. In this case, upon the motion of a journalist, a closed-door court hearing is made” (Part 2, Article 5). On the other hand, Article 86 of the RA Code of Criminal Proceedings (“The Witness”) does not provide for journalists as individuals who cannot be involved in the case and interrogated as witnesses. “Therefore, the journalist can be imprisoned for the refusal to be a witness - in this case to disclose the information source, the confidentiality of which is guaranteed by the Law on the journalistic profession. This legal contradiction has arisen as the Code of Criminal Proceedings was adopted by the Parliament in July 1998, while the Law “On Mass Communication” was passed five years after, in December 2003. To eliminate it, an appropriate amendment should be made into the Code to enable the representatives of the “fourth estate” to preserve the confidentiality of information sources”, the YPC Weekly Newsletter emphasized.

NOVEMBER 2004

ON NOVEMBER 9 a press-conference was held in the RA General Prosecutor’s Office, devoted to institution of separate proceedings on the terrorist attack in the Armenian Parliament on October 27, 1999. However, not all of the leading Armenian media were able to receive first-hand information on the reasons behind the closure of the investigation on this separate part. Thus, the correspondents of “**168 Zham**” weekly and the online publication of “A1+” TV company (www.a1plus.am) were refused in entry. As YPC was told in these editorial offices, the refusal of the General Prosecutor’s Office was motivated by “lack of seats”. Considering the permanently intense interest the Armenian media has been displaying for the past five years towards everything that refers to the events of October 27, the law enforcement bodies should have found a possibility to create additional seats.

The representatives of “A1+” noted also that it is not the first case for them when some state structures restricted access to information. Thus, recently particular difficulties were associated with the presence of “A1+” correspondents at the events held by the administration of the RA President. The latest example of that was the refusal to accredit “A1+” to cover the visit of the NATO Secretary General Jaap de Hoop Scheffer in Yerevan on November 5. The representatives of “A1+” were only able to attend the meeting of the Secretary General of the North Atlantic Alliance with the students of Yerevan State University, when accreditations were issued by the RA Ministry of Foreign Affairs.

ON NOVEMBER 22 at about 20.40 the car “VAZ-2121 Niva”, owned by “**Haikakan Zhamanak**” daily and parked by the entrance to the editorial office, ignited and soon got completely burned. According to the employees of “Haikakan Zhamanak”, they first heard a muffled clap; a few more exploding sounds came as the car was burning. The fire force and the police, as the editorial staff says, arrived on site in 15-20 minutes after the fire started. The Chief Editor of “Haikakan Zhamanak” **Nikol Pashinian** qualified the incident to be a terrorist attack, directed against him personally, because it was he who was driving this car, and that was the time he usually was heading home. In the opinion of Nikol Pashinian, the incident might have been organized by a well-known entrepreneur, the head of “MultiGroup” concern, RA National Assembly deputy Gagik Tsarukian. The Chief Editor supposed that the reason for that might be the articles in “Haikakan Zhamanak”, criticizing the bad performance of Armenian sportsmen at Summer Olympic Games in Athens (on the day of the incident Gagik Tsarukian was elected to be the Chairman of the

National Olympic Committee of Armenia). After the publication of these articles, as Nikol Pashinian maintains, Gagik Tsarukian, within his surroundings, promised to teach the Chief Editor of "Haikakan Zhamanak" a lesson - as soon as the newspaper makes another criticism of senior officials or well-known figures. In "Haikakan Zhamanak" of November 23 Nikol Pashinian noted that such a convenient pretext could have been the criticism of the Head of the RA Police Haik Harutiunian in one of the latest issues of the daily, with regard to the actions of the law enforcement bodies during the opposition rally on the night of April 12-13, 2004. (on that night four journalists were injured, including two correspondents of "Haikakan Zhamanak"). Besides, according to the Chief Editor, the newspaper, jointly with the Chairman of "Investigative Journalists" organization Edik Baghdasarian, was preparing a series of revelatory articles on the economic activities of Gagik Tsarukian, one of which was published on November 17. This very article could have been "the straw that had broken Tsarukian's back", because he knew that Edik Baghdasarian "continued to investigate the subject and other publications in "Haikakan Zhamanak" are to follow". (The second article by Edik Baghdasarian, titled "All Doors are Open before Tsarukian", was published by "Haikakan Zhamanak" on November 24 and continues the discussion of the illegitimate construction of houses and other facilities in the resort zone of Tsaghkadzor by the businessman.)

Gagik Tsarukian, in his interview to an Armenian-language newspaper of Los-Angeles, "Zhamanak", extracts from which were published in the same "Haikakan Zhamanak" issue of November 23, called the supposition about his involvement in the incident "not serious". Gagik Tsarukian noted that he had never had any problems with "Haikakan Zhamanak", but for some small controversies five years ago that were in past. "Should I have any objections to the pieces in their newspaper, I would have sent my attorney there", Tsarukian stressed. The Chief Editor of "Haikakan Zhamanak", on his behalf, called on the law enforcement bodies to deny or confirm by investigation the version of the involvement of Gagik Tsarukian in "the organization of a terrorist attack".

In the piece on the incident "Hayastani Hanrapetutiun" daily of November 23, quoting the Information Department of the RA Police, published the preliminary conclusion of the experts, according to which the ignition of the car happened as a result of malfunctioning of the battery wires. At the same time "HH" condemned "any action, whoever it is performed by, that is directed at the destabilization of the situation in the country and affects the psychological situation of the society, particularly, if the incident is somehow related with a medium". "Hayots Ashkhar" daily qualified the occurrence "as a cynical attack on media".

The incident was condemned also by a number of NGOs and the RA Ombudsman.

On November 23 Yerevan Press Club and the Committee to Protect Freedom of Expression issued a statement, questioning the preliminary report on the cause of ignition, "The journalistic community and the public of the country in general have grounds to be skeptical on the report issued by the Police not only because the cases of "spontaneous ignition" of cars are quite a rare occurrence, but also because the vast majority of journalists' abuse cases remain undisclosed. In particular, the Yerevan Press Club Newsletter recently has published a piece, in which the cameraman of the Russian First Channel Levon Grigorian told about the circumstances and the reasons for being beaten on the night of April 12-13 this year. The law enforcement bodies have as yet done nothing to find and punish those guilty. Another example - those who were beating the correspondent of "Haikakan Zhamanak" daily Haik Gevorgian on the same night not only remain undisclosed, but also the Head of the RA Police, in essence, justified this act of a

violence, announcing: “He should have behaved himself.” One conclusion can be drawn: the atmosphere of impunity that has intensified during the past months generates new crimes. And until the authorities of the country prove that they are able to prevent violence against citizens, in general, and journalists, as individuals on public duty, in particular, we cannot be confident that this and a number of other facts will be disclosed. Yerevan Press Club and the Committee to Protect Freedom of Expression demand that a serious and objective investigation be conducted and call to take resolute steps to stop the wave of terror that is gradually becoming a general evil”, the statement of YPC and Committee, joined by Internews Armenia public organization, concluded.

On November 29 the State Fire Service of the RA Department of Emergencies provided “Haikakan Zhamanak” daily with a final expert assessment of the reasons why the car owned by the newspaper and used by the Chief Editor Nikol Pashinian went on fire. On November 30 “Haikakan Zhamanak” published extracts from the expert assessment above. According to the document, the experts had considered two reasons for the ignition, an electrotechnical malfunction and outside intervention, and arrived at the conclusion that “the probable reason for the fire was the heat impact of an open fire source in presence of flammable substances”. As to the earlier version of ignition due to battery wire malfunction, in the opinion of experts, it was of little probability. Thus, the supposition of self-ignition of the car was actually rejected. At the same time, “Haikakan Zhamanak” believed there were certain deficiencies in the assessment: the phrasings are obscure, the mechanism of the ignition is not explained. For this reason the representative of the editorial office refused to sign the document. The assessment of the Fire Service was sent to an appropriate investigation body, which was to decide whether criminal proceedings should be instituted.

On December 3 the Public Relations and Information Department of the RA General Prosecutor’s Office informed that on December 2 the criminal proceedings were instituted by items 1 and 2 of Part 2, Article 185 of the RA Criminal Code (“Intentional destruction or spoilage of property”). These clauses stipulated punishment of up to 4 years’ imprisonment for an action, committed by arson, explosion or other publicly dangerous way and inflicting a major damage. The investigation was conducted by the Investigation Division of the Yerevan Police.

On February 9, 2005, “Haikakan Zhamanak” newspaper reported that on February 8 a representative of the Investigative Division of Yerevan Police, Ashot Kostanian issued a decision on the closure of investigation on the case. The information was placed on the front page of “Haikakan Zhamanak and was illustrated by a photograph of Gagik Tsarukian. The newspaper highlighted the circumstance that the investigative body did not even interrogate Gagik Tsarukian.

DECEMBER 2004

ON DECEMBER 6 “A1+” TV company, “Garun” and “Aghbyur” magazines were faced with the danger of being evicted from one of the Yerevan buildings, where the editorial offices of these media have been located for many years already. As YPC was told by the Director of “A1+” Mesrop Movsesian, the RA National Academy of Sciences several times throughout the year demanded to vacate the premises used to locate there the institutes and organizations of the Academy. The head of “A1+” thought the demand to be illegitimate and the pretext - invented. As Mesrop Movsesian noted, this could be confirmed by the eviction of “National Self-Determination” Union in 2003, however to this day the premises vacated have not been allocated to the NAS organizations in question.

“A1+” itself has been renting the office since 1992 and, according to Mesrop Movsesian, the Academy of Sciences for over ten years remained impartial to the fate of the building. All that time “A1+”, similarly to other tenants, paid salaries to the maintaining staff, took care of the building facilities. Moreover, the building itself, as Mesrop Movsesian stated, is owned by the RA Government and was transferred to the balance of the NAS for use. The litigation instituted in mid-2004 by the National Academy of Sciences against the Armenian Culture Foundation with a demand to vacate the premises used in the same building ended in favor of the Academy.

On December 6 “A1+”, “Garun”, “Aghbyur” and the Armenian Culture Foundation addressed the Government to allow them privatizing the premises taken. The response to the application was from the Department of State Property under RA Government. It stated that the mentioned entities were not subject to privatization since they were under the control of NAS.

As of the end of 2004, the situation was still not clear.

ON DECEMBER 24, “Haikakan Zhamanak” daily published a report that on December 23 the Chief Editor of the newspaper Nikol Pashinian addressed a letter to the RA General Prosecutor Aghvan Hovsepian. By this address the Chief Editor petitioned the Prosecutor to institute criminal proceedings on the illegitimate stoppage of power supply in the flat of “**Haikakan Zhamanak**” correspondent **Avetis Babajanian**, who resides in Armavir. In the opinion of the newspaper, the reason for the power supply interruption of the journalist’s flat was his article “Cold and Dark Days of Armavir” (“Haikakan Zhamanak” of December 18). The publication was critical of the activities of “Musaler”, the Armavir branch of “Electric Networks of Armenia” CJSC. It told, in particular, about the periodical power supply interruptions in dozens of villages of the region that started after the appointment of the new director of “Musaler”. On December 23 the newspaper noted that the power supply of Avetis Babajanian’s flat was interrupted on the command of “Musaler” director. As Avetis Babajanian informed YPC, the power supply of his flat was resumed on December 24. The journalist also noted that criminal proceedings on the incident were instituted basing on the letter of “Haikakan Zhamanak” Editor, which, as he learned from unofficial sources, were stopped due to absence of corpus delicti.