



YEREVAN PRESS CLUB

**2008: THE YEAR OF 20-DAY CENSORSHIP AND
THE TWO-YEAR MORATORIUM ON BROADCAST
LICENSING COMPETITIONS**

Annual Report of Yerevan Press Club

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JANUARY 2008

ON JANUARY 11 in “**Aravot**” daily an article “Has the ‘Alliance’ of the Gafesjians and the Sargsians Failed?” was published. The article told about the controversy between the co-owners of “**Armenia**” TV company, the Sargsian family and the American multi-millionaire of Armenian descent Gerard Gafesjian, about the rumors of a sale of share in the TV company, the alleged problems of salary allocations and payments, as well as projects implemented. On January 12 on the air of “Armenia” the co-owner of the TV company Bagrat Sargsian spoke and refuted the information, published by “Aravot”, announcing he would sue the daily. On January 15 the Media Ethics Observatory urged “Armenia” TV company and “Aravot” daily to solve the conflict out of court. Expressing its concern with the incident between the two media and noting that taking the problem to court might seriously harm the reputation of the media, the MEO appealed on “Armenia” TV to solve the issue through negotiations and on “Aravot” daily - to be ready to engage in them. MEO also stated its readiness to become a mediator in the out-of-court solution of the matter, if necessary. As a result, a written agreement was reached between “Aravot” and “Armenia” on publishing a refutation. It was published in “Aravot” issue of January 19, headlined “In reality ‘Armenia’ Flourishes”. The piece stated the information about “Armenia” TV company, published in the daily on January 11, was untrue.

IN THE EARLY MORNING OF JANUARY 19 at about 5.00 an attempt to set “**Asparez**” **Journalist’s Club** of Gyumri on fire was made. A piece of cloth, soaked in petrol and burning, was thrown at one of the windows of “Asparez” office. As a result, part of the window burned and the glasses cracked. In the report of the incident, placed on January 22 on the web-site of “Asparez”, it was noted that the Club resolved not to address the police (proceeding from the fact that the investigations into the cases of attempted trespassing on the property of the organization and its staff in 2002-2006 yielded no result). Meanwhile, on January 25 the investigative department of Shirak region of the Chief Investigative Department of the RA Police instituted criminal proceedings on Article 185 of RA Criminal Code (“Intentional Destruction or Damage of Property”). On his behalf, the Chairman of “Asparez” Board Levon Barseghian announced that the person who gave accurate information about the client of the arson would receive monetary award.

In the Early Morning of March 21, at 01.05 in Gyumri the Opel Vectra car owned by the President of “**Asparez**” **Journalist’s Club** of Gyumri **Nadezhda Hakobian** was set on fire. At the time the car was being used by the Chairman of the Club Board **Levon Barseghian**. According to Levon Barseghian, the arson was committed after he had returned to “Asparez” office from “GALA” TV company. He and the two nightmen saw two men fleeing away from the car ablaze, one wearing a cream-colored jacket, the other - a black one. By a preliminary estimate, the damage caused amounts to 900,000 AMD (around \$ 3,000). On March 21 the investigation department of the Police of Shirak region instituted criminal proceedings by Article 185 of the RA Criminal Code (“Intentional Destruction or Damage of Property”). On his behalf Levon Barseghian promised to award two similar cars to the police department that will disclose the crime. In the opinion of “Asparez” head, this incident was directly related to his efforts to protect “GALA” TV and the strict criticism of authorities voiced by him on that and a number of other occasions, as well as the number of threatening phone calls addressed to him and the Club, and the

arson attempt of “Asparez” office on the morning of January 19, 2008

On March 21 a number of public, also journalistic, organizations and media made statement, which stressed, in particular, that “assault in Gyumri against the independent journalistic organization is the direct consequence, from one side, of banning any form of dissent, political persecutions, hindering the work of opposition and independent organizations and media, on the other - preferential permissiveness of persons and bodies amiable to the authorities”: “The unprecedented activity of citizens in support of the freedom of speech and “GALA” TV under such conditions has probably caused the dislike of some persons and especially the Gyumri Mayor, who on March 20 urged the citizens not to support “GALA” speaking on another TV channel in Gyumri.” “As none of the attacks against “Asparez” has been so far disclosed by Gyumri law enforcement bodies, and this failure has made the criminals further unrestrained, we demand that investigation of all these incidents should be conducted by national law-enforcement bodies”, the statement went on saying.

Both incidents, related to the arson of the car and attempted arson of “Asparez” office were united in once case.

On September 5 “Asparez” Journalist’s Club of Gyumri released a statement saying that the investigation department of Shirak region is unable to disclose the crimes against the journalistic association: “For about 6-8 months is unsuccessful in trying to identify the offenders.” Meanwhile, the statement went on to stress, the journalistic association conducted its own investigation and, having compared the information from various sources, all the circumstances, concluded that the two crimes “were committed upon the order (wish) of the same person”. Besides, the Chairman of “Asparez” Board Levon Barseghian knows who the initiators and other accomplices are, at least 4 people. Yet from now on Levon Barseghian refuses to impart any information to the law enforcement bodies, since neither they nor the judicial system in the country “act and in reality protect the interests of the society and citizens”. “For example, in Armenia none of the three dozens of similar crimes against journalists and media are disclosed”, the statement of “Asparez” Journalist’s Club of Gyumri stressed.

As of late 2008 those guilty were not found.

ON JANUARY 30 the first interim report of the **OSCE/ODIHR Election Observation Mission at the presidential elections in Armenia** was released. The report noted that among other observation activities, since January 11 the Mission has been monitoring the coverage of presidential elections by Armenian media. According to the conclusions of the Mission, before the start of the official campaign (which started on January 21 - **Ed. Note**), “most of the broadcast media including public television demonstrated a clear imbalance in their coverage of the prospective candidates”.

The second interim report of OSCE/ODIHR EOM published on February 14 noted that “the amount of political and election-related information has increased significantly from January 21, onwards”. “On most of the media the candidates’ total coverage time was more equitable than in the previous reporting period. However, the coverage of Levon Ter-Petrosian in various broadcast media contained many critical remarks, while the other eight candidates were presented in a generally positive or neutral manner”, the authors of the report stressed.

On February 20 the International Election Observation Mission published a statement of

preliminary findings and conclusions on presidential elections in Armenia held on February 19, 2008. The preliminary conclusions of the EOM noted in particular: "During the official campaign which started on 21 January, the media overall treated all candidates equitably. Candidates received mostly positive or neutral coverage while one candidate received extensive negative coverage across the broadcast media, including on public media. News programmes were largely devoid of viewpoints critical of the ruling authorities." The statement also quoted positive aspects of the election process as well as issues raising concern. Among these the Mission noted: "The National Commission on Television and Radio (NCTR) did not adequately fulfill its mandate to monitor compliance of the media with legal provisions."

The post-election interim report, published on March 7, OSCE/ODIHR EOM stressed that during the period of February 20 - March 3, 2008, "the main broadcast media, including public television and radio, provided extensive coverage of the view of the authorities but rarely aired the views of those who raised concerns regarding the conduct of the 19 February poll".

On May 30 the final report of OSCE/ODIHR EOM was released. As a conclusion, the report noted that the Central Election Commission (CEC) and the National Commission on Television and Radio did not ensure that media of Armenia met their obligations and "media bias was evident". Favorable coverage of presidential candidate Serge Sargsyan, including his official duties as a Prime Minister, granted him undue advantage, while the opposition candidate Levon Ter-Petrosian gained a large amount of negative coverage, also on the Public TV and radio, the OSCE/ODIHR EOM stressed. Speaking about the post-election developments, the EOM also noted the "de facto censorship" applied during the state of emergency in Yerevan (March 1-20, 2008). In the report section, dealing with media, the EOM expressed its "longstanding concerns" over the independence of broadcast media: high degree of influence of editorial decisions by political and business interests; financial vulnerability of media; absence of real independence of NCTR and its inadequate regulation of broadcasting; actions against journalists and media. "Despite a relatively high number of outlets, there are no significant alternative sources of information", the EOM believed and recalled "A1+" TV company that had been off-air since 2002. While Radio Free Europe/Radio Liberty broadcasts on FM and "A1+" web-based service offered alternative political information, these were not accessible to all citizens, the EOM noted. In the opinion of the report authors, there exists a general lack of diversity in the political viewpoints aired by main broadcast media. The public opinion is not adequately informed through the exchange of political opinion and debate, for example, or through journalistic investigation, commentary and analysis. This has implications during electoral periods, when "candidates should be able to freely present their views and qualifications, and voters should be able to learn and discuss them, as committed to in paragraph 7.7 of the 1990 OSCE Copenhagen Document". Presenting the media-related legislation, the EOM noted that the public broadcasters complied with their legal obligations regarding the provision of free airtime, and the candidates "were able to freely convey their political messages": "However, despite criticism voiced during the 2007 parliamentary elections, the slots were again aired mostly outside what is considered to be primetime viewing, thereby potentially reducing voters' ability to learn about candidates' views".

In the conclusion of the report of OSCE/ODIHR EOM listed a number of recommendations to the Armenian authorities, also with regard to media.

Stressing the necessity to respect the freedom and independence of the media, as

objective reporting is crucial during elections, the EOM recommended that the authorities of the country “should refrain from interfering in activities of media and journalists as it undermines their independence”.

The RA Law “On Television and Radio” should provide for a more diverse membership on the National Commission on Television and Radio, “for example by including media professionals and representatives of civil society”.

As to the public broadcaster, its functioning could be enhanced by: “lessening the role of the state in making appointments” to the Council of Public TV and Radio Company; broadening the composition of the Council “by allowing a broader range of political parties as well as non-partisan groups to nominate members”; “developing a neutral, objective and informative editorial line in all its programmes and strictly adhering to the legal requirements”; “providing voters a border range of electoral information through a greater variety of formats”.

Another recommendation of the EOM referred to the procedure of media complaints that must be transparent and easily accessible for stakeholders and public: “Consideration should be given to unifying relevant provisions in a single legal act. Granting two bodies (NCTR and CEC - **Ed. Note**) the competence to rule on media related complaints created some confusion regarding jurisdiction. Therefore, NCTR should be the sole body responsible to monitor the media’s general compliance with applicable legal provisions.”

Finally, the OSCE/ODIHR EOM recommend that “candidates’ campaign slots provided free of charge on public media should be broadcast after the main evening news, thereby enhancing voters’ ability to learn about candidates’ views”.

ON JANUARY 31 the international “**Human Rights Watch**” organization released its report on human rights practices in over 75 countries of the world in 2007. In the reports section dealing with Armenia the media freedom and freedom of speech in the country are discussed, too. In particular, “Human Rights Watch” notes: notwithstanding that on July 3 parliament turned down the amendments to media laws that effectively would have banned the broadcasts of Radio Free Europe/Radio Liberty and other foreign broadcasters on public television and radio, the broadcasting of the RFE/RL Armenian Service on Public Radio of Armenia was stopped and is now implemented on private networks. “Journalists continue to face threats, harassment and criminal charges”, the report said and quoted the examples of the assault on the Chief Editor of “Iskakan Iravunk” newspaper Hovhannes Galajian on September 15, 2007, the arsons of cars of the founder of “Football Plus” weekly Suren Baghdasarian in the morning of January 30, 2007 and the Chairman of the editorial board of “My Right” newspaper and Panorama.am news portal Ara Saghatelian on February 8, 2007, the sentence, made on June 6, 2007, to the free-lance journalist Gagik Shamshian, who was attacked and harassed due to an article he had published, yet charges were further introduced not to the assaulters but to the journalist himself. The report also mentioned that on January 12, 2007 the Court of Appeals lessened the sentence of the Chief Editor of “Zhamanak-Yerevan” daily Arman Babajanian, who was earlier convicted for 4 years’ imprisonment for document fraud to evade military service. The sentence of the journalist had been considered unnecessarily harsh.

FEBRUARY 2008

ON FEBRUARY 5 at “Urbat” club **Yerevan Press Club** presented the findings of monitoring the 8 broadcast media coverage of the first 10 days (January 21-30, 2008) of

the official RA presidential election campaign. On February 14 the findings for the second 10 days (January 31 - February 9, 2008) of the election campaign were presented. On February 25 the final report on monitoring the coverage of the presidential elections 2008 by 8 broadcast media of Armenia was publicized. Yerevan Press Club and "TEAM" Research Center had undertaken two stages of monitoring the coverage of presidential elections 2008 by broadcast media of Armenia. The first stage covered October-December 2007, and the second involved the period, defined legislatively as pre-election promotion period for RA presidency candidates (January 21 - February 17, 2008). At both stages similar methodology was applied, reflecting, however, the specifics of each stage, conditioned by differing legal and normative regulation of media activities. Appropriately, the object and subject of the monitoring were modified, too.

The findings of the research were published by separate books on Armenian, Russian and English languages, as well as placed on the YPC web-site: *www.ypc.am in "Studies" section*.

ON FEBRUARY 7 at the RA Administrative Court the consideration of the dispute between Gyumri Tax Inspection and the founder of "GALA" TV company, "CHAP" LLC, started. A lawsuit versus "CHAP" from Gyumri Tax Inspection with a demand to recover from "CHAP" the tax liabilities of 25.2 million AMD was accepted by the RA Commercial Court on November 27, 2007 (the case was further taken to be considered by the RA Administrative Court, since by the judicial reform the Commercial Court is abolished in Armenia since 2008). The tax audit started at "CHAP" a week after the statement of owner of "CHAP" LLC Vahan Khachatryan was released on October 22, 2007, owner of "CHAP" LLC Vahan Khachatryan regarding the attempts of various power agencies to exert pressure on "GALA". The document stressed the infallibility of the TV channel's stance and the readiness to prevent any attempt of intervention into its editorial policy. Upon the end of the audit the RA State Tax Service reported the violations revealed. In particular, this referred to concealed amounts of TV advertising. The owner of "CHAP" Vahan Khachatryan, on his behalf, announced that "GALA" could not have the advertising volume that the calculations of the tax officers based on. Through a motion of the tax officers on December 3 the property and finance of "CHAP" were taken into custody. On December 17 the court hearings started that were interrupted on December 18 after the court accepted the counter-claim of "CHAP" demanding to abolish the act on the results of audit and ruled to unite the two suits in one (*see details in "On Freedom of Speech in Armenia" report for 2007 on YPC web-site, www.ypc.am, "Studies" section*). At the session of February 7, 2008 "CHAP" made two motions about undergoing a complex judicial and accounting as well as technical assessment. On February 8 the court refused the first motion and secured the second one.

The ruling on the dispute was read out on March 19. The Administrative Court obliged "CHAP" LLC to pay into the state budget tax debts and fines, exceeding the amount of 25 million drams (more than \$ 81,000). The overall amount that "GALA" founder was to pay including the litigation and the execution expenses came to 26 million 899 thousand AMD (about \$ 90,000).

A day before, on March 18, the Headquarters to Protect Freedom of Expression and "GALA" TV issued a call to support the TV company: "We must be prepared to any court decision. If the judge upholds the charge of the Tax Inspection, which is highly probable, "GALA" TV company will be either forced to immediately pay the amount and, remaining on air, continue its fight to receive compensation for the damages incurred, or it will be simply deprived of air, as the government will put the property of the TV company under an

auction to take the demanded amount.” The Headquarters also announced about the intention to implement a telethon to collect assistance in support of “GALA”.

The telethon on the live air of “GALA” channel was started in the morning of March 19. It was announced that the action would last until the amount necessary to pay off the liability was collected. On March 25 the telethon ended. In the course of the telethon 26 million 458 thousand AMD were raised. The funds to support the TV company were received mostly from the citizens and organizations of Armenia.

On March 27 the Gyumri Tax Inspection notified the founder of “GALA” TV company, “CHAP” LLC, that it has to pay a fine for the tax liability overdue. The fine, imposed by the tax officers, makes 0.15% of the profit tax and VAT for every day of overdue, and since “CHAP” lost the case, it starts to accumulate since November 12, 2007, that is, the day when the tax audit at the company was over. Thus, “GALA” founder should make an additional payment to the state budget, amounting to about 1.7 million AMD (about \$ 5,500).

The debt was paid by the funds raised through the telethon, with the remaining amount being withdrawn from the bank account. At the same time the founder challenged the ruling of the Administrative Court of March 19 2008 on the dispute with the Gyumri Tax Inspection. However, the complaint was dismissed.

ON FEBRUARY 19, the day of presidential elections in Armenia, a number of **incidents involving journalists occurred**.

At about noon in the vicinity of a precinct in Center community of Yerevan several young people started a scuffle with “**A1+**” cameraman **Hovsep Hovsepien**. The men, looking not sober, came up to Hovsep Hovsepien as he got out of the car and tried to take his camera away. In the end they managed to take away the video tape and damage it beyond repair.

The incident with the correspondent of “**Hayk**” newspaper **Samvel Avagian** occurred at a market in the center of Yerevan. The journalist went there to verify the reports, received by the editorial office that at the market certificates were being issued that enable voters to vote at precincts other than pertaining to their permanent residence and voters were being transported to polling stations. According to the article of Samvel Avagian, published in “Hayk” on February 20, the market director suggested that the journalist have a talk with him in his office, where a police officer was. According to the journalist, during the interview with the police officer, the market director took away his recorder, started pouring threats and then gave the recorder back, having erased the recording.

In the afternoon the correspondent of “**Haykakan Zhamanak**” daily **Lusineh Barseghian** and observer, RA National Assembly Deputy of “Heritage” party Armen Martirosian arrived at the precinct 13/16 of Erebuni community of Yerevan to verify a report of violations. The Chairman of the Commission, Vasil Afian, refused to answer the questions of the journalist, prohibited taking pictures of him and ordered for Lusineh Barseghian to be dismissed from the precinct. Through the efforts of Armen Martirosian the correspondent of “Haykakan Zhamanak” returned to the precinct and continued her work. Then the Chairman of the Commission ordered the police officers to put out of the precinct not only Lusineh Barseghian but also Armen Martirosian. On this incident at the polling station 13/16 criminal proceedings were instituted by Article 149 of the RA Criminal Code (“Obstructing the realization of electoral right, the work of electoral commission or the

implementation of the authorities of election participants”). On July 28 the court of general jurisdiction of Erebuni and Nubarashen communities of Yerevan found the Chairman of the Precinct Election Commission 13/16 Vasil Afian guilty of violating Part 1 of Article 149 of the RA Criminal Code and imposed a fine on him, amounting to 300,000 AMD (about \$ 1,000).

ON FEBRUARY 23, at about 17:00 during the vote recount at the polling station 5/21 of Davidashen community of Yerevan an incident involving journalists occurred. According to free-lance journalist **Gagik Shamshian**, the media representatives were first disallowed to enter the room where the recount was being made, but by the end of the working day they managed to get in. In the room, apart from members of Central Election Commission, there were police officers, several deputies of the RA National Assembly, including a member of Republican Party faction Levon Sargsian with about a dozen of bodyguards. When Gagik Shamshian started taking pictures, Levon Sargsian threw a plastic bottle at him, after which the bodyguards attacked the journalists. According to Shamshian, bodyguards were pouring swearing and threats, pushed out of the room him and other journalists - the correspondent of “**Aravot**” daily **Naira Mamikonian**, the correspondent of **Panorama.am** news portal **Artur Khemchian** and the correspondent of “**Chorrord Ishkhanutiun**” newspaper **Taguhi Tovmasian**. During the attack the camera of Gagik Shamshian was broken. Also the video camera of “**A1+**” cameraman **Sevak Grigorian** was damaged, his videotape with the recording was snatched away.

ON FEBRUARY 27 “Asparez” Journalist’s Club of Gyumri addressed the RA General Prosecutor’s Office and the Prosecutor’s Office of Shirak region demanding to institute criminal proceedings against the Gyumri Mayor Vardan Ghukasian on charges of libel, insult and threatening. The reason for addressing the law enforcement bodies were the statements of Vardan Ghukasian made on February 25 at the city rally, held on the occasion of Armenian presidential elections’ end. Speaking to the rally participants, the Gyumri Mayor said in particular: “In our city there are a couple of sections that disgust people. This is the “GALA section” and “Asparez section” that keep (...) praising Levon Ter-Petrosian for the money of Armenian National Movement, let them come to their senses, too”. “Asparez’ Journalist’s Club believes that in one of his statements Vardan Ghukasian libeled the Club, insulted us, and in the other - threatened us in the presence of several thousands of people”, the statement of the journalistic association, released on February 25, said in particular. The statement also directed the attention of the law enforcement bodies to the permanent phone calls with threats that the Chairman of “Asparez” Board Levon Barseghian and other staff members of the organizations had been receiving over the past years.

“Asparez” Club was denied criminal proceedings against the Gyumri Mayor.

ON THE EVENING OF FEBRUARY 27 a group of men in civilian cloths interfered with the work of the correspondent of the **Armenian Service of Radio Free Europe/Radio Liberty Erik Ghazarian** in Yerevan. The journalist was accompanying RA National Assembly deputies from the “Heritage” party Zarouhi Postanjian and Stepan Safarian, along with representatives of the non-governmental organizations, who came to the Kentron Police Department of Yerevan, to find out reasons, for detention of two young men during the protest action of opposition leader Levon Ter-Petrosian’s supporters on the same day. In the course of conversation with the police officials the deputies also tried to find out why the above mentioned men were stationed in the police building for already a lengthy period of time. The latter didn’t like this, and they used force to push the deputies and the people accompanying them out of the building, taking away the microphone from Erik Ghazarian

and throwing it out of window. After this they set in the cars and drove away.

IN THE MORNING OF FEBRUARY 28, the correspondent of “**Hayk**” newspaper **Artak Yeghiazarian** and his father - head of one of “Republic” party’s territorial branches Lyova Yeghiazarian, were taken to the Nor Nork Police Department of Yerevan from their apartment. According to Artak Yeghiazarian, they were charged for violation of Article 180.1 of RA Code on Administrative Infringements of Law (“Violation of procedure for conducting meetings, demonstrations, marches and rallies”). The journalist was released approximately after two hours - only after writing an explanatory note that he was present at rallies of various political forces carrying out his professional duties. An administrative case was filed against the journalist’s father.

IN THE MORNING OF FEBRUARY 29, on Yerevan’s Theatre square, where the protest action of opposition leader Levon Ter-Petrosian’s supporters was taking place, the police officers attacked freelance journalist **Gagik Shamshian**. According to the latter, having noticed that he has started photographing them, several police officers attacked him and started beating, while swearing at the same time. The beating of the journalist stopped only after people in the square interfered. The attackers tore journalist’s coat and damaged his camera.

ON FEBRUARY 29 the **court** of general jurisdiction of Shirak region announced its ruling on the dispute of the founder of “**GALA**” TV company, “CHAP” LLC, and the Gyumri municipality.

As noted (*see above, on the dispute between RA State Tax Inspection and “CHAP”*), after the audit at “Chap” LLC, made in October-November 2007, the Tax Inspection announced violations revealed. As a result the tax officers came to the conclusion that the founder of “GALA” had illegally used the TV tower, owned by Gyumri municipality. The owner of “CHAP” Vahan Khachatrian, on his behalf announced that the ownership certificate was received by Gyumri municipality only on November 5, 2007 and till that time, in 2004-2005, he kept addressing various agencies to find out who the owner of the tower was. According to Vahan Khachatrian, he started using the tower that had no owner in 2005, having previously renovated it and enhanced the transmitter. In November 2007 the Gyumri municipality addressed the RA Commercial Court demanding that “CHAP” LLC be obliged to stop the use of the city TV tower and the equipment installed there be disassembled. The attempts of the TV channel to solve the problem through negotiations remained futile. At the hearings that started on December 10, 2007 the RA Commercial Court declined the counter-claim of the respondent, with a demand to establish mandatorily its right to a limited use of a TV tower (mandatory servitude). This ruling was challenged by “CHAP” at the RA Court of Cassation, and a little later - with the higher jurisdiction body of the RA Commercial Court. On December 13, 2007 the hearings had been interrupted until a response to the challenge was received (*see details in “On Freedom of Speech in Armenia” report for 2007 on YPC web-site, www.ypc.am, “Studies” section*).

“GALA” founder also made a demand of a mandatory servitude to the court of primary jurisdiction of Shirak region. On December 19, 2007, the court of primary jurisdiction refused to accept the suit of “CHAP” LLC, yet on January 12, 2008 this ruling was abolished by the RA Civil Court of Appeals (here and below the names of the courts are quoted in accordance with the judicial reform, implemented in Armenia in 2008 - *Ed. Note*). As a result, both suits were unified into one case given for the consideration of the court of general jurisdiction of Shirak region.

The consideration of the case started on February 25. At this and subsequent sessions the court refused a number of motions, made by "CHAP" LLC, also regarding the technical and construction assessment and presenting of a number of documents, confirming the municipal ownership of the TV tower. At the same time, the motions of examining the tower and its location were secured (the examination was made on February 27), as well as the motion of attaching the correspondence between "CHAP" LLC and the municipality regarding the tower rental terms to the case.

On February 29 the court of general jurisdiction of Shirak region announced its ruling, obliging "CHAP" LLC to stop the use of the city TV tower and disassemble the equipment installed there.

On March 28 "GALA" founder challenged this ruling with the RA Civil Court of Appeals.

On April 7 in Gyumri an attempt was made to set on fire the TV tower that "GALA" TV company makes its broadcasts from. At about 05.00 in the morning a resident of a nearby house noticed the smoke. The fire brigade that arrived on site found a burning tire at one of the tower levels, about 25 meters high. Fortunately, the equipment and the cables of "GALA" and several Internet providers were not damaged. In the press release, disseminated on the same day by the Headquarters to Protect Free Expression and "GALA" TV company, doubts were expressed that this crime, too, will remain undisclosed.

On April 14 the RA Civil Court of Appeals left in force the ruling of the court of general jurisdiction of Shirak region.

On April 16 at about 14.00 the representatives of the RA Service of Compulsory Execution of Judicial Acts arrived at the editorial office of "GALA" and demanded that the use of the city TV tower be stopped. The head of "CHAP" LLC Vahan Khachatryan asked the compulsory executors to provide him time to implement the ruling, since the disassembling of the equipment can only be made by experts, yet he was refused. As a result, the cables, connecting the equipment with the antenna, were switched off and sealed, and "GALA" was deprived of air. In the morning of April 17, in accordance with the agreement reached earlier, the TV company was visited by the US Charge d'Affaires in Armenia Joseph Pennington. Shortly after his departure, compulsory executors came to the editorial office again: the seals put the day before were removed and in the afternoon "GALA" went on air. According to the communication released on April 18, the head of the RA Compulsory Execution Service Gagik Ayvazian characterized the actions of its staff towards "GALA" as a "cautionary disconnection".

On October 31 RA Court of Cassation abolished the ruling of court of general jurisdiction of Shirak region on dispute between Gyumri municipality and founder of "Gala".

The Court of Cassation ruled that the case be directed to the consideration of the court of primary jurisdiction of Shirak region.

Till the end of year 2008 no new proceedings on the case had started.

MARCH 2008

IN THE MORNING OF MARCH 1, freelance journalist **Gagik Shamshian** was detained on the Theatre square, during the operation on dispersing the supporters of the opposition

leader Levon Ter-Petrosian's supporters, carried out by the law-enforcement bodies. According to the journalist, his photo-camera was taken away, he was beaten and taken to the Yerevan Police in handcuffs. From here he was re-directed to the Kentron Police Department, and later - to the Kanaker-Zeitun Police Department. Gagik Shamshian said that he was able to inform his lawyer, several journalists and the RA Human Rights Defender about his location. While in the Police Department, Gagik Shamshian needed medical treatment, so he was taken to the hospital and returned back. The journalist was released only at midnight, after the intervention of RA Human Rights Defender's staff.

IN THE EVENING OF MARCH 1, during the rally at the French Embassy, the law-enforcement officials interfered with the work of the **Armenian Service of Radio Free Europe/Radio Liberty correspondent *Ruzanna Stepanian*** and beat the driver of their service car, although the latter introduced himself as an employee of a media.

SINCE MARCH 1 a state of emergency was introduced in Yerevan to last 20 days. The decree of the RA President on the state of emergency stipulates, in particular, that "the media publications on state and inner political issues can be made exclusively within official information, released by state bodies".

After the emergency rule was introduced, the issuance of certain national newspapers was banned because of their content, the web-sites of these media were blocked. As media reported, the ban on printing was carried out by representatives of the RA National Security Service. A number of media, having come across illegal obstacles, gave up working as they were unable to voice opposition and critical viewpoints. The news portals critical of the government were blocked, the domain name of "A1+" was put on hold, rebroadcasts of the Armenian Service of Radio Free Europe/Radio Liberty were halted on the frequencies of "ArRadioIntercontinental" and the access to the web-site of the radio station was also blocked.

On March 4 the OSCE Representative on Freedom of the Media Miklos Haraszti urged the authorities of the country to lift the restrictions on media activities. "The state of emergency should not be used by the government to take away the public's right to news from diverse sources. Pluralistic reporting helps ensure transparency of governmental action even in dire times", Miklos Haraszti said. Miklos Haraszti also noted that after the introduction of the state of emergency the public is presented with one view of events only: "Notwithstanding the wave of unsanctioned demonstrations and even violence, independent reporting on the events is the legitimate right of the media, to which Armenia has committed itself in the OSCE. The existing legal provisions against incitement to violence should be sufficient to tackle any potential misuse of speech rights and should not be replaced by pre-emptive censorship."

The declaration of the European Union, released on March 5, also referred to the need to lift the state of emergency, which imposes restrictions on a number of civil liberties, including the freedom of the media.

Concern with the situation of Armenian media was also voiced by other international organizations, in particular, "Article 19", "Reporters Without Borders" (RSF), Committee to Protect Journalists, the Broadcasting Board of Governors, as well as the US Co-Chairman of the OSCE Minsk Group Matthew Bryza, the representative of US Department of State Public Affairs Section Tom Casey. The Chief Executive Officer of Millennium Challenge Corporation John Danilovich in his letter of March 11 to the RA President Robert Kocharian noted that democratic environment is an important pre-condition for the

Millennium Challenge Compact operation and stressed that the recent events in Armenia could have negative effects on the country's eligibility for MCC funding: "MCC is reviewing operational aspects of its ongoing work in Armenia in light of these events, including the suspension of media freedoms and the imposition of a state of emergency, and is closely monitoring the situation with US Government and donor colleagues."

On March 12 at press conference in Yerevan the RA Human Rights Defender Armen Harutiunian urged the authorities of the country to lift the restrictions on media activities. "Ensuring freedom, independence and diversity of media is of great importance for the realization of the constitutional right of citizens to information", the RA Human Rights Defender Armen Harutiunian noted, in particular.

On March 12 a statement was issued by heads of twelve media and two media associations, where the situation was qualified as ban on media undesirable for the authorities. "Under the current situation, our constitutional right to disseminate and receive information has been violated; the universally acknowledged principles of freedom of speech and press have been infringed; the media bear financial losses; censorship is being implemented in Armenia, and our country has turned up in a complete informational blockade", the statement notes in particular. On the same date the Editors-in-Chief of "Demo" newspaper, published in Mountainous Karabagh, and the online publication "KarabakhOpen" expressed their concern with the developments and solidarity with their colleagues, calling the Armenian authorities to lift the restrictions on media activity, especially as limitations "are in fact applied only towards the independent and opposition media".

On March 13 the Decree on the state of emergency was amended. In particular, sub-clause quoted above, referring to the media, was re-defined: "The media are prohibited from publishing or disseminating information on state and inner political issues, which is deliberately untrue or destabilizing, or appeals to take part in events held with no prior notice (illegally), as well as publication or dissemination of such information or appeals in any other way or form."

The amendments to the Decree related to media activities came into force on March 14; the situation, however, did not improve in any significant way. A number of newspapers were still not allowed to print; the Internet-sites were still blocked.

On March 14 heads of 10 Armenian media issued another statement. "Robert Kocharian's Decree was published on March 13th, which was supposed to, according to his comments, ease the restrictions on the activities of media under the state of emergency. On the same day newspapers, which were effectively blocked by the well known Decree of March 1, were sent to print houses. The National Security Service representatives, conducting censorship at the publishing houses, familiarized themselves with the content of the newspapers at length and, as they said, reported to corresponding officials, after which, without any basis, announced that the publication of the presented newspapers was forbidden. Explanations were given only to the representative of the "Aravot" daily: the NSS officials offered to edit the report on Levon Ter-Petrosian's press-conference. They also found it unacceptable to publish the interview with those, who suffered during the events of March 1. The editorial office of the daily refused to comply", the statement noted in particular. The signatories also stressed that "the materials of the newspapers presented for print give no basis to oppress our constitutional right to disseminate information, halt our professional activity".

On March 14 Yerevan Press Club, Committee to Protect Freedom of Expression, Media Diversity Institute-Armenia, Internews Media Support NGO, "Asparez" Journalist's Club, Vanadzor Press Club, Helsinki Citizens Assembly Vanadzor Office, Transparency International Anti-Corruption Center published a statement on the development in the Armenian Media during the emergency situation.

"We, the undersigned public organizations, realizing the existing tension, respecting the letter of the law, have in no way broken the Decree of the RA President on the state of emergency in Yerevan and to this day - until the Decree was amended - have refrained from any public statements.

Yet during the same period (March 1-13, 2008) in the media sphere there were numerous violations of the legality and the emergency rule, the responsibility for which lies with a number of state bodies. These violations not only did not serve the realization of the Decree goals, that is, the elimination of circumstances that have prompted the state of emergency, but also bore a danger of further polarization of the society, intensification of intolerance and hatred.

In particular, a number of media, violating the subclause 4 of clause 4 of the Decree, "the publications in the mass media on the issues of internal situation and state importance to be restricted to official information provided by the state entities", published and broadcast not only official information, but also presenting political propaganda, most of which was one-sided, discrediting and insulting for the opposition. Apart from being a violation to the Decree, this, in fact, runs contrary to the appeals made by the authorities to reach accord and reconciliation in the society.

The most prominent example of such unacceptable coverage was shown by the First Channel of the Public Television of Armenia that not only neglected the clause of the Decree, but also once again broke Article 28 of the RA Law "On Television and Radio": "The prevalence of a political stance (...) in the programs broadcast by public TV (...) is prohibited."

The National Commission on Television and Radio, which, according to the Law, is an independent regulator and is also "to oversee the activities of TV and radio companies" (RA Law "On Television and Radio", Article 37, part 1), failed to perform one of its main functions and did not prevent the violation of the Decree provisions not only by the PTA First Channel, but also the majority of private broadcasters.

Violations of the relevant Decree provision were recorded also in a number of print media, with no response ensuing from the RA Ministry of Justice. The Ministry, within its competence, had to take steps to eliminate the violations.

While censorship was not listed among the restrictions, imposed by the Decree, moreover, according to Article 4 of the RA Law "On Mass Communication", it is actually prohibited, these days not only in Yerevan, but also all over the country factual pre-emptive censorship was practiced. Due to this the publication of a number of national newspapers was banned because of their content. Some others, facing illegal obstacles, refused working, because they were unable to voice opposition and critical viewpoints, while the publication of opinions, discrediting and insulting for the opposition, often even aggressive, in other newspapers was in no way restricted. The media report that the pre-emptive censorship is practiced by people introducing themselves as officers of National Security Service.

The Decree was directly followed by blocking of several news web sites that did not even have time to make any report on the situation. Such actions were completely illegal, and imposing restrictions with no grounds, under the circumstances, is qualified by us to be a violation of the presumption of innocence. Here, too, we deal with political discrimination, as only those sites were blocked that had previously disseminated criticism of the country authorities.

Being well aware of the pressure exerted on media over the past years, we emphasize that the responsibility for such violations falls not so much on the journalists and editors but rather on competent bodies. The actions or inaction of the latter has resulted in a situation when the provision of the Decree, “the publications in the mass media on the issues of internal situation and state importance to be restricted to official information provided by the state entities”, was made not so much to serve the peace in the society, but rather has become a tool for shattering free media and expression, restoring the traditions of one-sided propaganda, typical for totalitarian regimes.

The suspension of publication of some newspapers - whether due to the refusal to work in these conditions or because of the prohibition to publish - has resulted also in economic consequences, making the competition unequal. This has occurred on political grounds. The suspension of publication has already affected their readership, and is likely to affect it even more in future.

Under the conditions of manipulative use of media the statements by international structures and officials were also presented in a skewed manner, which is disorienting for the society and is an additional factor, adversely influencing Armenia’s international reputation.

Since displays of law infringements in the media sphere under emergency rule were directly related to elections, the responsibility for these offences is as important as the punishment of those guilty of electoral violations.

It was expected that the amendment to the Decree on emergency rule will be directed at providing greater freedom in reporting the current developments. Yet with its enforcement on March 14 none of the problems listed above was solved. Moreover, the amendment contains definitions, allowing arbitrary interpretation, in particular, a ban on “(...) publishing or disseminating deliberately false or destabilizing information on state and inner political issues”. Under the conditions of selective law enforcement and illegal actions that the media sphere has encountered lately, this makes the media quite vulnerable.

In this regard we demand that:

- the National Commission on Television and Radio and the Council of Public TV and Radio Company be held accountable for the unacceptable situation in broadcast media;
- the circumstances of illegal censorship, of blocking web-sites be investigated and the implementers and commissioners of these illegal actions be held accountable;
- the subclause 4 of clause 4 of the RA President's Decree on the state of emergency be reviewed immediately.

At the same time, realizing that the bodies mentioned in this statement as responsible for

the existing situation and the grave violations of the rule of law acted within the overall context of the policy of the Armenian authorities, we emphasize not so much the harsh punishment, but rather the legal record of the violations and those responsible for them. The supremacy of law and the legal precedent are particularly important to exclude any future violations of the free expression", the statement of the eight non-governmental organizations said.

Despite the numerous protests of both the international and the Armenian public, the issuance of newspapers was finally resumed and the news portals were unblocked only after the state of emergency was lifted on March 21.

ON MARCH 2, during a rally of opposition forces in Gyumri, the representatives of the law-enforcement bodies hindered the work of "**GALA**" TV film crew. All three members of the film crew, including the correspondent of "**GALA**" Armineh Vardanian, were taken to Gyumri Police Department and released only after 3 hours.

On the same rally the representatives of law-enforcement bodies took away the photcamera of "**Aravot**" daily correspondent in Gyumri **Nune Arevshatian**, which was handed back to her only after interference of citizens close by.

The police officers threatened and insulted the correspondent of the **Armenian Service of Radio Liberty** in Gyumri **Satenik Vantsyan**, until the moment, when they came to realize, that she is conducting a live reportage from the scene of events.

Besides, the police detained **the Board Chairman of "Asparez" Journalist's Club of Gyumri Levon Barseghian**. The head of "Asparez" spent more than five hours in police. Further on the Gyumri Police Department addressed the court to hold the journalist accountable on Article 182 of the RA Code on Administrative Offences ("Intentional Failure to Obey a Legal Order or a Demand of a Police Officer or a Military Serviceman"). Levon Barseghian, on his behalf, filed a counter-claim, demanding to reject the police suit and to nullify the act of his detainment. On April 11 the RA Administrative Court started hearing the dispute between the Board Chairman of "Asparez" Journalist's Club of Gyumri Levon Barseghian and the Gyumri Police Department. Both parties filed motions to involve several police officers as witnesses. Levon Barseghian also proposed a reconciliatory agreement: the parties should withdraw their suits, and the Deputy Head of the Shirak Regional Department of the RA Police, who had ordered to detain the journalist, should make a public apology to him. The judge offered the parties time to submit the list of witnesses after which the session adjourned. On June 10 the RA Administrative Court read the ruling: Court found Levon Barseghian guilty and committed him to paying a fine of 50,000 AMD (around \$ 160). On September 10 Levon Barseghian challenged this ruling with the RA Court of Cassation. The Court did not accept the complaint for consideration. Levon Barseghian stated his intention to address the European Court of Human Rights.

ON MARCH 8 the **RA Constitutional Court** left in force the decision of the RA Central Election Commission "On Electing the President of Armenia" of February 24, 2008. The court ruling notes that appeals to the Constitutional Court, challenging the decision of the CEC, were made by the RA presidency candidates Tigran Karapetian (February 27) and Levon Ter-Petrosian (February 29). The appeals of the candidates were united in one case, on which, apart from CEC, responding parties were the RA General Prosecutor's Office, the RA Police and the National Commission on Television and Radio; the presidential candidate Serge Sargsian was the third party.

The ruling of the Constitutional Court, in particular, noted that Levon Ter-Petrosian grounded his court appeal on a number of violations that he believed were made during election, also by media. Thus, during the period of January 21-30, 2008 on eight TV channels “the positive coverage of Serge Sargsian prevailed significantly, while the coverage of Levon Ter-Petrosian in all cases was negative; on some TV channels in the coverage of the two candidates no balance was observed, the airtime was distributed unequally”. Besides, as the ruling of the Constitutional Court said, the applicant thought it extremely important that unequal conditions were created for candidates throughout the election promotion; in particular, “Hailur” newscast of the Public Television violated the principle of impartiality, stipulated by the RA Electoral Code. The applicant grounded the violation of the principle of legality, equality and freedom by broadcast media by the report of the OSCE/ODIHR Election Observation Mission and the interim report of the Yerevan Press Club on monitoring the Armenian broadcast media coverage of presidential elections-2008, released on February 14.

The ruling of the Constitutional Court notes that according to one of the respondents, the Chairman of the National Commission on Television and Radio Grigor Amalian, during the pre-election promotion for the Armenian presidential elections NCTR monitored the programs of the TV channels, specified in Levon Ter-Petrosian appeal, and “has revealed no violations of the established procedure for pre-election promotion”.

According to the ruling of the Constitutional Court, in the course of presidential elections of 2008 “the effective control over the pre-election promotion was out of the RA CEC attention”. “The National Commission on Television and Radio displayed formalistic approach to the compliance with the legal requirements. As a result, the media coverage displayed not only partiality, but also, in some cases, violations of legal and ethical norms”, the court ruling noted in particular.

ON MARCH 11 AND 12 a number of newspapers published the communication of the RA Police press-service that within the criminal proceedings, instituted on the mass unrest on March 1, 2008 in Yerevan, the RA Police announced several individuals wanted, including **Nikol Pashinian** (the Chief Editor of “Haikakan Zhamanak” daily - **Ed. Note**), charged by Article 316 of the RA Criminal Code (“Violence against a representative of power”). On April 17 the heads of “Aravot”, “Zhamanak-Yerevan”, “Haikakan Zhamanak”, “Hayk”, “Taregir”, “Hraparak”, “Chorrord Ishkhanutiu” newspapers, “A1+” TV company, Lragir.am online publication, “Investigative Journalists” NGO released an open letter to the RA General Prosecutor Aghvan Hovsepian, urging to stop the prosecution of the Chief Editor of “Haikakan Zhamanak” daily Nikol Pashinian (the statement was subsequently joined by “168 Zham”, “Capital”, “90 rope” newspapers, Tert.am online publication, “GALA” TV company of Gyumri). “The criminal proceedings against the Chief Editor of ‘Haikakan Zhamanak’ daily Nikol Pashinian have an obvious political slant, and we qualify it as a grave human rights violation, an undisclosed pressure on free expression. This confidence is due to the fact that the charges introduced are disproportionate to his activities”, the authors of the letter announced. Expressing their concern with the fate of the colleague who has to hide the signatories demanded to stop the unjustified persecution of Nikol Pashinian and allow him to return to his family, professional and political activities.

As of late 2008 the situation did not change.

ON MARCH 11 the **US Department of State** released country report on human rights practices in different countries of the world in 2007, prepared by the Bureau of Democracy, Human Rights, and Labor.

Addressing the freedom of speech and press situation in Armenia, the US Department of State noted in particular, that “the Constitution provides for freedom of speech and freedom of the press, but the government generally did not respect these rights in practice” and “there were incidents of violence, intimidation, and self-censorship in the press”. The report listed the incidents with media representatives that occurred in 2007, as well as the court cases against media and journalists.

The private print media, the report noted, expressed a wide variety of views without restrictions, but no media outlet was completely independent of patronage from economic or political interest groups of individuals. Newspaper circulation was very limited, and most of the population relied on broadcast media for news and information. Private TV stations generally offered news coverage of good technical quality; however, in the opinion of report authors, the quality of news reporting on television and radio varied. Most stations were owned by progovernment politicians or well-connected businessmen, factors that prompted journalists to engage in self-censorship. Major broadcast media generally expressed progovernment views. All Armenian TV and radio stations avoided editorial commentary or reporting critical of the government.

The report of the US Department of State reminded that “A1+”, “the last politically independent television station to operate in the country”, is still unable to broadcast. Observers view the decision of refusing a license to “A1+” to be politically motivated, and all 12 attempts of “A1+” to receive a broadcast license starting from 2003 were unsuccessful.

The report also described the media activities during elections. In the opinion of the US Department of State, during the 40 days before the parliamentary elections of May 12 the broadcast media were more generous in the coverage they allocated to opposition politicians than in past years. Several were given the opportunities to speak about their programs and positions. Public television adhered to the legal requirement to provide free time to each party, contesting in the elections, and these broadcasts were aired without editorial restrictions: “Nevertheless based on its media monitoring efforts, the OSCE reported that the enhanced coverage was devoid of critical comment by television media.”

As concerns the presidential elections, as the report noted, the monitoring of broadcast media, conducted ahead of them by the “TEAM” Research Center and Yerevan Press Club revealed strong bias in coverage of two presidential candidates, Prime Minister Serge Sargsian and the RA First President Levon Ter-Petrosian. “The Prime Minister, who received abundant coverage in his official capacity, received mostly positive and sometimes neutral coverage, while Ter-Petrosian received predominantly negative, and, on rare occasions, neutral coverage”, the report of the US Department of State stressed.

ON MARCH 25 in the city of Hrazdan (Kotayk region) representatives of law enforcement bodies impeded the work of the correspondent of “**Chorrord Ishkhanutiun**” newspaper **Taguhi Tovmasian**, the free-lance journalist **Gagik Shamshian** and the correspondent of “**Zhamanak-Yerevan**” daily **Karineh Harutiunian**. The journalists arrived in Hrazdan to cover the protest actions to support the deputy of the RA National Assembly Sasun Mikaelian and other opposition politicians, arrested in the context of March 1 events in Yerevan.

During the rally the representatives of law enforcement bodies tried to take away Taguhi Tovmasian’s recorder and Gagik Shamshian’s photo camera. According to Gagik

Shamshian, the police also tried to push him into the police car by force. He was saved only by the intervention of the locals, who further helped him and Taguhi Tovmasian to escape. Gagik Shamshian said that the law enforcement officers started to follow them, and they were only able to get to Yerevan by the vehicle of the Rapid Response Group of the RA Human Right's Defender's staff.

According to the correspondent of "Zhamanak-Yerevan" daily Karineh Harutiunian, the editorial car was followed upon the exit of Hrazdan and was stopped by the officers of the State Traffic Inspection and the local police. Karineh Harutiunian and the driver were brought to the Police of the Kotayk region. According to Karineh Harutiunian, on the way and at the police premises she was not allowed to use her mobile phone, her arms were twisted when she attempted to answer her phone calls. At the police Karine Harutiunian was threatened: as it turned out, the local senior police officers were indignant at the photographs published in one of "Chorrord Ishkhanutiun" issues. As the journalist noted, for unknown reasons soon the officers started to treat her in a milder manner, and an hour later she and the driver were released.

On March 27 "Zhamanak-Yerevan" daily reported also that, by its information, the day before in Kotayk region some strangers picked up the issues of "Zhamanak Yerevan" and "Chorrord Ishkhanutiun" of March 26, 2008 from the newspaper stalls. These were the issues that published reports on the situation in Hrazdan.

ON MARCH 25 several Armenian newspapers published an open letter signed "Group of students of the Journalism Department of Yerevan State University" and addressed to "**Hailur**" newscast of the **First Channel of the Public Television of Armenia**. "What you are doing today - hiding the true information and presenting biased news, beneficial to the authorities - is beyond our understanding of the mission of journalist, journalistic ethics and morals. The reality has made you face an important dilemma: to present impartial, two-sided information, purging it from ordered, fake scenes, or to finally and irreversibly lose faith and trust of people not only towards you but also to journalistic profession as such, which we are witnessing today", the letter said, in particular.

ON MARCH 27 "A1+" TV company, "Aravot", "Zhamanak-Yerevan", "Hayk", "Haikakan Zhamanak", "Hraparak", "Chorrord Ishkhanutiun", "Taregir" newspapers made a statement, calling on all the citizens of Armenia to inform the editorial offices about the illegal actions that are committed against them. "In the center of the capital the police officers that patrol the vicinity of Liberty Square continue the violence and harassment of peaceful citizens. Almost every day there are reports that people who were strolling about the city are brought to the police precincts, of the violation of the constitutional right to free movement of people who happened to be in that area of the capital, of the use of batons against innocent people, and of other illegal actions", the statement of eight media said, in particular. The signatories also specified the phone numbers that can be dialed, stressing they consider it to be "their duty to inform the society about such cases in every detail and thus protect the constitutional rights of the RA citizens".

IN THE EVENING OF MARCH 27 during a walk on the Northern Avenue of Yerevan **Tigran Paskevichian**, the correspondent of "**Hetq**" online publication and the scriptwriter of "**Shoghakat**" TV company, was detained and taken to the Shengavit Police Department of Yerevan. According to Tigran Paskevichian, the police officers took him by his arms and led to a police car. The question of the journalist why he was being detained one of the police officers said: "I don't know, this is what we were told to do." The colleagues of other media around were unsuccessfully trying to explain it to the law-

enforcers that Paskevichian is a journalist. Having spent some time at Shengavit Police Department, Tigran Paskevichian was transferred to the Mash tots Police Department from where he was soon released with no explanations as to the reason of detainment and only an excuse of having allegedly mistaken him for someone else.

APRIL 2008

APRIL 2 marked the sixth year since “A1+” TV company lost its right to broadcast. Throughout these years “A1+” took part in broadcast licensing competitions 12 times: 8 times it tried to get access to TV air, 4 times to radio air. Each time the National Commission on Television and Radio evaluated its bids less than those of its rivals. The situation of “A1+” continues to remain in the focus of the local and international communities. During the emergency rule in force in Yerevan on March 1-20, 2008 not only the news web site was blocked, but also the whole of “A1+” domain was closed.

ON APRIL 4 the RA President Robert Kocharian, being interviewed by journalists after the ceremony of opening an Armenian bank building, refused answering the question of the correspondent of the **Armenian Service of Radio Free Europe/Radio Liberty**. The President explained his refusal, saying: “I have more respect for those media of Armenia, who subsist with their own money, and are not funded by other governments, while working in Armenia. (...) What you are doing is directed at disrupting the basis of the RA statehood, and I cannot assess it positively” (*quoted from “Aravot” daily of April 5, 2008*).

ON APRIL 4 “Iravunk” newspaper, the party organ of “Constitutional Right” Union, did not come out. At the press-conference, held on the same day, the Chairman of “Iravunk” Editorial Board Hrant Khachatryan announced the publishing house had refused to take the newspaper for publication. The refusal was conditioned by the order of the RA Service of Compulsory Execution in implementing the court ruling. The inner party conflict at CRU conference in September 2006 between its leaders, Hrant Khachatryan and Haik Babukhanian, and the subsequent litigation broke not only the party, but also the editorial board of its print organ. Hrant Khachatryan, having restored his rights of the CRU Board Chairman through court, dismissed the Chief Editor of “Iravunk” Hovhannes Galajian and the newspaper Director Gegham Grigorian, and on February 23, 2007, “Iravunk” was issued with a new editor. On their part, Haik Babukhanian, Hovhannes Galajian and Gegham Grigorian since February 27 started publishing an alternative newspaper, “Iskakan Iravunk”. At the same time Hovhannes Galajian and Gegham Grigorian addressed the court of primary jurisdiction of Center and Nork-Marash communities of Yerevan, who secured the suit of the plaintiffs on November 20, 2007, committing the respondent to restore them in their positions and to pay monetary compensation for every month of induced idleness (*see details in “On Freedom of Speech in Armenia” report for 2007 on YPC web-site, www.ypc.am, “Studies” section*). Hrant Khachatryan challenged the ruling, but on February 4, 2008 the Civil Court of Appeals left it unchanged. However, the court ruling had not been executed.

The publication of “Iravunk” newspaper was restarted on June 3. Hovhannes Galajian and Gegham Grigorian again headed “Iravunk” newspaper and Haik Babukhanian again became the Chairman of the Editorial Board.

On the same day, June 3, a new newspaper was published, “Iravunk de Facto”. Its Chief Editor Piruza Meliksetian said that “Iravunk de Facto” is unrelated to any political party and is a private medium.

ON APRIL 17, during the session of **Parliamentary Assembly of Council of Europe** held on April 14-18 in Strasbourg, Resolution 1609 (2008) "The Functioning of Democratic Institutions in Armenia" was adopted. The draft of the Resolution was developed basing on the report on the observation of the presidential election in Armenia of the Ad Hoc Committee of the Bureau of the Assembly, headed by John Prescott. The report section, dealing with media, noted that despite the large number of broadcasters in Armenia, also national, the media pluralism and the structure of control and ownership over media have been a point of concern. "Despite significant improvements in the legislation, the Secretary General of the Council of Europe pointed out in December 2007 that the current situation of the Armenian media in general does not meet the standards of the Council of Europe", the report of the PACE Ad Hoc Committee said. As to print media, they are more diverse and independent, but due to low circulation, only reach a limited number of people. Television is therefore the most important source of information in the country. During the official campaign period, the public broadcasters adhered to the legal provision for equal access to free airtime for presidential candidates. However, in agreement with Central Elections Commission, the political advertising on the Public Television of Armenia was aired starting at 17.15, that is "far outside prime time and at a time when most of the population is commuting home from work". Public and private broadcasters also adhered to the legal provisions for equal conditions for paid political promotion, "although prices for political advertising remained high". The public broadcaster, the report notes, provided overall equitable news coverage of the different campaigns. However, the coverage of Levon Ter-Petrosian's campaign was selective, distorted and mostly negative in tone: "Monitoring by OSCE/ODIHR EOM revealed, overall, strong imbalance of media coverage in favor of Serge Sargsian in the private broadcast media. Similar to what happened on Public TV, the news coverage of Mr. Levon Ter-Petrosian's campaign by private media was mostly negative in tone. Overall, the media did not live up to their legal obligation to provide impartial information on the election campaign to the Armenian public."

By the Clause 8 of the adopted Resolution 1609 (2008) "The Functioning of Democratic Institutions in Armenia", PACE recalls the commitments of Armenia to the Council of Europe and urged once more the Armenian authorities to undertake a number of reforms without delay. In particular, item 8.3 of the Resolution stipulates: "The independence from any political interest of both National Commission on Television and Radio and the Council of Public Television and Radio must be guaranteed. In addition, the composition of these bodies should be revised in order to ensure that they are truly representative of Armenian society. The recommendations made by the Venice Commission and Council of Europe experts in this respect must finally be taken into account. The Assembly reiterates that apart from reforming the legislation, the authorities must take steps to ensure freedom and pluralism of the public television and radio on a day-to-day basis. Also, the harassment by the tax authorities of opposition electronic and printed media outlets must be stopped."

ON APRIL 25 in Yerevan the **RA Human Rights Defender Armen Harutiunian** presented his extraordinary public report "On Presidential Elections of February 19, 2008 and the Post-Election Situation", describing, among other issues, the situation of free expression and media in Armenia.

In the report section, dealing with pre-election processes, it was noted in particular that during the period, preceding the pre-election promotion, the television coverage of a presidential candidate was distinct for "strongly critical nature". Although after the official launch of pre-election campaign the consistent political bias of TV companies became somewhat milder, this "did not leave a qualitative impact on the situation in place". The ombudsman's report quoted a conclusion from a report of the OSCE/ODIHR Observation

Mission regarding the electoral campaign coverage: "On most of the media the candidates' total coverage time was more equitable (...). However, the coverage of Levon Ter-Petrosian in various broadcast media contained many critical remarks, while the other eight candidates were presented in a generally positive or neutral manner." On its behalf, the ombudsman's report notes, the opposition forces also contributed to the intensification of intolerance with regard of representatives of power: "Thus, in all promotional materials (opposition media, disseminated video materials, leaflets, etc.) the idea of law enforcement bodies as servants of authorities, already having an "enemy" image, as a tool of compulsion and violence, was developed." In the opinion of Armen Harutiunian, the mutual accusations, one-sided comments, in particular the ones made by the RA President Robert Kocharian and "Hailur" newscast of the First Channel of the Public Television of Armenia, contributed to the escalation of tension, were a stimulus for even stronger negative endorsement from the other side.

A separate chapter of the report was dealing with the regime of the state of emergency, introduced on March 1, 2008 for 20 days by a Decree of the President of Armenia. Assessing the media activities for the period, Armen Harutiunian reminded the subclause 4 of clause 4 of the Decree, according to which the publications of media on state and domestic policy issues could be made solely within official communications of state bodies. "Even though the restrictions introduced by the Decree did not stipulate censorship, which is also prohibited by Article 4 of the RA Law "On Mass Communication", on these days factual censorship was applied. Due to this, the publication of several nationwide newspapers was prohibited due to their content. A number of publications, proceeding from the regime, introduced by the Decree, refused from operating, since had no chance to present opposition and critical viewpoints, whereas the publication of statements, discrediting and insulting to the opposition, often aggressive, in other newspapers and TV channels was in no way restricted." "A1+" and Lragir.am web sites were also blocked. In the opinion of Armen Harutiunian, the restrictions, introduced by the Decree, did not contribute to calming the society down: "A most vivid example of such unacceptable coverage was demonstrated by the First Channel of the Public Television of Armenia, which not only neglected this provision of the Decree, but also once again made a grave infringement of the requirement of Article 28 of the RA Law "On Television and Radio": "The prevalence of a political stance in the programs broadcast (...) on public television (...) is prohibited". The National Commission on Television and Radio, which, in accordance to the Law, is the independent regulator and is to implement the control over the activities of the broadcasters, failed to perform one of its main functions and did not prevent the violations of the Decree provisions not only by the PTA First Channels, but also most of the private broadcasters. Since the illegal displays in the media sphere during the emergency rule were directly related to the election, holding those guilty accountable is as important as the punishment of people who made infringements during the electoral process. "Besides, under the circumstances of manipulative use of media they also made a distorted presentation of statements of international structures and officials, which disoriented the society and became an additional factor, adversely affecting the international image of Armenia", the report went on saying.

In the conclusive part of the report the RA Human Rights Defender suggested to take a number of measures, directed at overcoming the situation in place, including: "To ensure freedom of expression, create conditions to ensure diversity of opinion and impartiality in electronic media. In this regard, the reformation of the broadcasting legislation will have much significance. It is also necessary to guarantee the equal participation of the representatives of power and opposition in the formation of the bodies, regulating and controlling the activities of TV and radio companies."

ON APRIL 29 “Freedom House” international organization published its annual global survey on freedom of press in 2007. The media situation was assessed by “Freedom House” assigning a numerical score from 1 to 100 by the following categories: free (1-30 points), partly free (31-60 points), not free (61-100) - the lower the score, the higher the freedom. The latter was defined by three dimensions: legal environment in which media operate; political environment - the degree of political control over the content of news; economic environment in which media operate. The sum of the three dimensions yielded the cumulative rating of the media situation in each country. “Freedom House” noted the overall negative shift in media freedom worldwide.

The ranking of Armenia showed a backslide in 2007, too - 66 points versus 64 in 2006. In other words, the Armenian media had been classed as not free for six years already, since 2002. The two-point slippage of freedom level in 2007 was due, primarily, to “increased government pressure on the media ahead of parliamentary and presidential elections”, “legal harassment of journalists” and “severe financial pressures on the independent ‘GALA’ TV station”. “Freedom House” also noted: “Despite the constitutional and legal protection for freedom of the press, in practice these rights were threatened. Incident of violence, legal intimidation and financial pressure all damaged media freedom and led to self-censorship. Libel remains a criminal offense. Despite legislation that provides access to public information, in practice journalists were frequently denied access.”

Recalling the deprivation of Armenian Service of Radio Free Europe/Radio Liberty of a possibility to broadcast on the frequencies of the Public Radio and the failure to provide a license to “A1+” TV company, the authors of the report stressed: “Broadcasting is by far the most important source of information in Armenia. As a result, most government efforts to control the flow of information are aimed at the broadcast media.”

In the opinion of “Freedom House”, the environment was highly politicized and the government pressure was at a high ahead of the May parliamentary election and again, at the end of the year, ahead of the February 2008 presidential election. During the RA presidential election campaign, the broadcast media were generally more pro-government inclined in their coverage, although more attention was given to opposition politicians than during previous election cycles: “Monitoring reports of broadcast media indicate that there was a strong bias in coverage for the two top presidential candidates, Prime Minister Serge Sargsian and the former President Levon Ter-Petrosian. Sargsian, backed by President Robert Kocharian, received mostly positive coverage, while coverage of Ter-Petrosian was highly critical.”

Among the examples of pressure on media and journalists “Freedom House” quoted: the situation of “GALA” TV company of Gyumri; the explosion by the entrance to “Chorrord Ishkhanutiun” newspaper office in December 2007; the institution of criminal proceedings versus two Chief Editors, of “Haikakan Zhamanak” daily Nikol Pashinian and of “Chorrord Ishkhanutiun” newspaper Shogher Matevosian, taking part in the march of October 2007; the sentence of free-lance journalist Gagik Shamshian in June 2007; the attack on the Chief Editor of “Iskakan Iravunk” newspaper Hovhannes Galajian in September 2007; the continuing imprisonment of the Chief Editor of “Zhamanak-Yerevan” daily Arman Babajanian.

MAY 2008

ON MAY 3 “Press Stand” press dissemination agency did not deliver “Hraparak”

newspaper to newspaper stands. The editorial, published in the next issue and titled "Armenia the Country of Censors" (*"Hraparak of May 6, 2008"*), reported the agency management "disliked" one of the pieces published, mentioning "Sovrano" company that belongs to the owners of "Press Stand". Having reminded that according to the agreement, the functions of "Press Stand" include only the delivery of "Hraparak" to newspaper stands and not "the role of a censor who decides - upon reading the contents of the issue - that its dissemination should be prevented", the newspaper qualified the situation as "a classical example of obstructing the freedom of press, the work of journalists", i.e., a criminal offence. The newspaper also announced it was ready to protect its rights and readers by all legal means. The issue of May 6 re-published the article which, in the opinion of the editorial office, was "disliked" by the press dissemination agency.

ON MAY 13 the RA Constitutional Court heard the issue of compliance of Part 3 of Article 53 of the **RA Law "On Television and Radio"** with the RA Constitution. An appropriate appeal on this was submitted to the Constitutional Court by **Radio "HAY"** on December 24, 2007. In the opinion of the applicant, this Article of the broadcast Law, stipulating that "the license holder pays an annual fee for the use of frequency, the amount of which is defined proceeding only from the expenses, necessary to service the frequency", contradicts some provisions of the Constitution, in particular, Article 45. This Article imposes an obligation to pay "taxes, duties, make other mandatory payments through a procedure and in an amount, stipulated by law".

The reason for addressing the Constitutional Court were the court rulings on the suit of Radio "HAY" and five other radio companies ("Vem", "Impuls", "City FM", "Ardzagank", FM 105.5) to annul the Clause 1 of the Decision of the RA Government No. 946-N, dated July 6, 2006. According to this Clause, the RA Ministry of Transportation and Communication had received the competence to define and approve the amount of annual fee for servicing the broadcast frequency. The procedure for the payment and the new tariffs for servicing frequencies allocated to radio companies were introduced by the Decree of the Minister of Transportation and Communication on November 1, 2006. Following this Decree, the Republican Center of Telecommunications demanded to make the payment before December 25, 2006. In the opinion of the plaintiffs, the Minister's Decree contradicted the Constitution and violated the legislation, primarily Article 9 of the RA Law "On Legal Acts", according to which "the kinds, amounts and the procedures of tax, duty and other mandatory payments made by natural and legal persons" must be defined "by law only". On May 11, 2007 the RA Commercial Court refused the suit, ruling that the Government had not exceeded its competence. Radio companies challenged this decision with the RA Court of Cassation that did not secure the appeal on June 26, 2007 (*see details in "On Freedom of Speech in Armenia" report for 2007 on YPC web-site, www.ypc.am, "Studies" section*).

According to the head of Radio "HAY" Aram Mkrtchian, the appeal to the Constitutional Court challenged not the governmental decision, but the norm of the broadcast legislation quoted above, on the basis of which the court rulings were made: contrary to the Constitution, the law does not stipulate the procedure and the amount of the annual fee for using the frequency.

At the session of May 13 the Constitutional Court recognized Part 3 of Article 53 of the RA Law "On Television and Radio" to be contradicting the RA Constitution and invalid. At the same time, a reservation was made that the Article is in force till December 1, 2008. In the ruling of the Constitutional Court it was noted, in particular, that despite the incompliance of the existing legislative regulation to the principles of rule-of-law state, the commitment to

pay for the use of the frequency is legitimate in itself. In the opinion of the Constitutional Court, on the one hand, imposing charges for providing air affects the issue of stable fiscal relations, on the other - its immediate abolishment can create unequal conditions for broadcasters.

IN THE EARLY MORNING OF MAY 16 in Yerevan the editorial office of **Panorama.am** news portal was burglarized. Having come to the office in the morning of May 16 the employees saw the door locks and a window pane broken. The robbers took away computers, including a processor, storing editorial archives, and other office equipment, as well as the cash held at the office. According to a representative of Panorama.am, the damage incurred was assessed to be 1,250,000 AMD (about \$ 4,000). On the occurrence criminal proceedings were instituted by the Erebuni Police Department of Yerevan on Article 177 of the RA Criminal Code ("Robbery"). On its behalf, Panorama.am announced a monetary reward for information, contributing to the crime disclosure.

On July 16 Erebuni Police Department suspended the investigation of the case, as the offenders were not identified.

ON MAY 16, at about 16.00, Artak Harutiunian, the driver of the office car of the Head of the Tax Inspection of Gyumri, impeded the professional duty of the correspondent of "**GALA**" TV company of Gyumri **Armineh Vardanian** and cameraman **Artem Adamian**. The driver twice hit the camera of the cameraman who shooting in front of the tax inspection and then put the correspondent of the TV company out of the lobby by force. The journalists of "GALA" were preparing a report about the change of the Head of Gyumri Tax Inspection. The former Head Martin Zilfimian was transferred to an equivalent position, that of the Head of Aparan Tax Inspection. The press release of the Headquarters to Protect Free Expression and "GALA" TV company of May 16, 2008 noted that while heading the Gyumri Tax Inspection Martin Zilfimian was a "commander of one of the fronts in the large-scale attack on the TV company, initiated in October 2007". As the press release informed, on October 16, 2007 Martin Zilfimian invited the owner of "CHAP" LLC, the founder of "GALA" TV company, Vahan Khachatrian, and for an hour he was convincing Khachatrian not to provide air to the opposition, and further on made quite a lot of effort to start litigation against the TV company and recovering its tax liabilities (see above, *the dispute between the Gyumri Tax Inspection and "CHAP"*).

An application on the incident with journalists was submitted to the Gyumri Police Department that started the investigation. The occurrence was also covered by "GALA" newscasts.

IN THE AFTERNOON OF MAY 18 the free-lance correspondent of "**Zhamanak-Yerevan**" daily **Robert Sargsian** was detained and taken to the Police Department of Masis city (Ararat region). As "Zhamanak-Yerevan" informed on May 21, 2008, Robert Sargsian was taking pictures of the protest action in the city by his mobile phone, when he was approached by police officers, who put him into the car by force and took to the police department. According to "Zhamanak-Yerevan" Executive Editor Aydin Morikian, the police officers took the journalist's mobile phone, deleted the pictures, he was beaten on the way and at the police department. In about an hour Robert Sargsian was moved to the Police Department of the city of Artashat and released only in the evening, at about 22.00.

ON MAY 19 Yerevan Press Club issued a statement on freedom of speech and press in Armenia.

“Political situation, formed in Armenia as a result of the past presidential elections, makes the need for specific, decisive steps in democratic reform domain all the more urgent. A most important condition for the effectiveness of these reforms is the change of the information climate in the country, the guarantee of free expression and diverse media.

The past year became a period of new ordeals for the Armenian media. The attacks of authorities on free media revived almost immediately after the end of parliamentary elections 2007. It suffices to remember how quick the Government was in attempting to push the amendments to the RA Law “On Television and Radio” that were in fact aiming to oust the programs of Radio Free Europe/Radio Liberty from Armenian air. Afterwards the hunt of the state agencies for “GALA” TV Channel of Gyumri was unleashed.

The extremely partial coverage of political processes by most of the TV companies ahead of, during presidential elections and the post-election period became a direct consequence of the increased pressure of the authorities on broadcast media.

The introduction of state of emergency on March 1-20, 2008 in Yerevan was accompanied by preemptive censorship that resulted in a suspension of a number of leading newspapers, blockage of web-sites, known for their critical attitude towards authorities. The one-sided reporting, insulting for the opposition, that a number of TV companies aired was spreading intolerance and hostility towards significant segments of political field and the society. This violated the commonly accepted professional and legal norms as well as the respective provisions of the RA President’s Decree on introducing state of emergency.

The global survey on freedom of press of “Freedom House” international organization for 2007, released in late April this year, once again classed Armenian media as not free. The two-point decline of media freedom level in the country was explained by “Freedom House” to be due primarily to “increased government pressure on the media ahead of parliamentary and presidential elections”.

The Resolution 1609, adopted on April 17, 2008 by the Parliamentary Assembly of the Council of Europe, said: “Even though there is a pluralistic and independent print media, the current level of control by the authorities of the electronic media and their regulatory bodies, as well as the absence of a truly independent and pluralist Public Broadcaster, impede the creation of a pluralistic media environment and further exacerbate the lack of public trust in the political system.”

After the adoption of PACE Resolution 1609, the critical remarks of a number of other international and local organizations about presidential elections and the post-election situation in Armenia, quite a lot of time has elapsed, yet there is an impression that the authorities of the country did not make appropriate practical conclusions. To rectify the situation Yerevan Press Club proposes the following priority measures that must be implemented during the upcoming one or two months:

1. During the parliamentary elections of 2007, the presidential elections of 2008 and also in the post-electoral period the National Commission on Television and Radio (NCTR), having a status of independent regulator and commissioned to “control the activities of TV and radio companies” (RA Law “On Television and Radio”, Article 37, Part 1) failed to comply with one of its main functions and failed to prevent violations of the RA legislation by most of the broadcasters. This problem was reflected in the ruling of the RA Constitutional Court of March 8, 2008 and in an extraordinary public report of the RA Human Rights Defender, published on April 25, 2008. In particular, the Constitutional

Court stated that in the course of presidential elections of 2008 “the National Commission on Television and Radio displayed formalistic approach to the compliance with the legal requirements. As a result, the media coverage displayed not only partiality, but also, in some cases, violations of legal and ethical norms”. The preliminary conclusion of the International Election Observation Mission at the presidential election of Armenia, dated February 20, 2008, notes: “The National Commission on Television and Radio did not adequately fulfill its mandate to monitor compliance of the media with legal provisions.” The PACE Resolution 1609 of April 17, 2008 stresses directly: “The independence from any political interest of both the National Television and Radio Commission and the Public Television and Radio Council must be guaranteed. In addition, the composition of these bodies should be revised in order to ensure that they are truly representative of Armenian society. The recommendations made by the Venice Commission and Council of Europe experts in this respect must finally be taken into account.” In 2006 the report on the state of media freedom in Armenia by the OSCE Representative on Freedom of the Media recommended that the composition of these bodies “should represent the political and social diversity of the country, and should include NGOs and professional associations”.

Proceeding from what has been said, we insist on the need to implement within shortest time possible the legislative amendments to ensure the participation of various political forces, civil society in the formation of NCTR, and we urge the incumbent members of the National Commission to voluntarily resign. Through the formation of the new composition of NCTR - in a procedure, stipulated by profound legislative amendments - there will be an opportunity to fulfill the requirements of Article 83.2 of the RA Constitution, as well as the recommendations of the PACE Resolution 1609 of April 17, 2008.

2. During the past year the incompliance of the activities of the Public TV and Radio Company of Armenia with its status and mission became even more obvious. Ahead and during presidential elections of 2008 the news and current affairs programs of the public broadcaster provided one-sided information and did not comply with the requirements of the RA Law “On Television and Radio” about ensuring political plurality. Moreover, by its activities, the Public Television did not only fail to contribute to national accord, but also, on the contrary, incited mutual hatred. In the same way it continued to work during the post-election period. The abovementioned report of the RA Human Rights Defender notes: “A most vivid example of such unacceptable coverage (during the state of emergency - YPC) was demonstrated by the First Channel of the Public Television of Armenia, which not only neglected this provision of the Decree, but also once again made a grave infringement of the requirement of Article 28 of the RA Law “On Television and Radio”: ‘The prevalence of a political stance in the programs broadcast (...) on public television (...) is prohibited’.”

The whole responsibility for violating the legislation, the standards of public broadcasting, the professional norms lies on the Council of Public TV and Radio Company. We believe that in the Council, as a result of appropriate legislative changes, an equal representation of professionals is to be made - upon the nomination from both political forces at power and the opposition. This would serve to fulfill the recommendation of PACE Resolution 1609 of April 17, 2008: “(...) Apart from reforming the legislation, the authorities must take steps to ensure freedom and pluralism of the public television and radio on a day-to-day basis.” The first step towards the reformation of the public broadcasting of Armenia, in our opinion, can be also the voluntary resignation of the Council of the Public TV and Radio Company - in full composition.

3. A particularly dangerous precedent for the free expression was the application of

preemptive censorship in Armenia during the period of March 1-20, 2008, while it is prohibited by the RA legislation and was not introduced by the President's Decree on state of emergency or by any other official document.

We demand that an independent investigation of the occurrences of March 1, 2008 and subsequent developments, that must be made according to PACE Resolution 1609, include also the consideration of who, upon whose instructions and on what legal grounds exercised preemptive censorship, and those responsible for it be punished by the RA legislation.

4. We demand to stop the persecution of media for dissidence on any pretext. The political struggle cannot be turned into a campaign against democratic values; this increases the existing tension and endangers the future of the country", the statement of Yerevan Press Club said.

ON MAY 19 the RA National Assembly in the second hearing and finally adopted a draft law on introducing an amendment to the **RA Criminal Code**, abolishing **Article 318 ("Insult of Representative of Power")**.

Article 318 stipulated a punishment by a fine, ranging from 100 to 500 minimal salaries for public insult of a representative of power because of his/her duty (Part 1), and in case of a repeated offence - by a fine, ranging from 300 to 1,000 minimal salaries or by imprisonment for not more than a year (Part 2). The amendments to Article 318 of the RA Criminal Code, adopted on June 9, 2004, significantly mitigated the punishment for insulting a representative of power (*see details in "On Freedom of Speech in Armenia" report for 2007 on YPC web-site, www.ypc.am, "Studies" section*). However, they did not fully meet the expectations of international organizations and civil society, who thought it unacceptable to have a provision in the legislation that ensures greater protection of officials than of ordinary citizens. In 2007 Yerevan Press Club submitted to all RA NA factions a package of amendments to the media-related laws, also a proposal to abolish Article 318.

ON MAY 27 at the session of court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan an incident happened, involving a police officer Edgar Petrosian and the correspondent of "**Taregir**" newspaper **Gayaneh Arustamian**. At the court the case of Misak Hovakimian, charged with violence against a representative of power during the events of March 1, 2008 in Yerevan, was being heard. According to Gayaneh Arustamian, during the interrogation of Edgar Petrosian, who was involved in the trial as the injured party, she put a recorder in front of him. The police officer switched it off. Having noticed this, Gayaneh Arustamian again turned the recorder on and warned Edgar Petrosian not to switch it off. According to the journalist, as she was turning round to get back to her place, she happened to touch the police officer's shirt with her pen. The officer punched her in her shoulder in response. A quarrel started, as a result of which the judge asked Gayaneh Arustamian to leave the courtroom.

On May 28 the incident in the court room was covered by a number of newspapers. In particular, "Haikakan Zhamanak" daily noted in the postscript to its story about the occurrence that "the fact of the incident with the journalist can be taken by the Prosecutor's Office to be a report about a crime".

JUNE 2008

ON JUNE 16 in Yerevan an action was held to support the Chief Editor of “**Zhamanak-Yerevan**” daily **Arman Babajanian**, sentenced to 3.5 years of imprisonment for document fraud to avoid compulsory military service. The action was to mark the two years since the detainment of the journalist - June 26, 2006. In the march from the Houses of the Government to the residence of the RA President representatives of NGOs, media and readers of “Zhamanak-Yerevan” took part. The march participants called for an early release of the Chief Editor of “Zhamanak-Yerevan”: the time when Arman Babajanian can again address the Commission on Early Release and Release on Parole draws near. The two previous petitions of Arman Babajanian for an early release were turned down in July and December 2007 (see details in “*On Freedom of Speech in Armenia*” report for 2007 on YPC web-site, www.ypc.am, “*Studies*” section).

On June 18 the open address of the RA National Assembly deputy of “Heritage” faction, the member of the NA Standing Committee on State and Legal Issues Zaruhi Postanjian to the President of Armenia Serge Sargsian was published. The address urged the head of the state “to display good will” and “if possible, to contribute” to the fair realization of the legitimate right of people, including Arman Babajanian, to an early release.

On June 19 the group “To Support Political Prisoner Arman Babajanian” announced that starting on June 20 it would hold “permanent protest actions”, demanding early release of the Chief Editor of “Zhamanak-Yerevan”. The first such action was to be held on June 20, by the RA President’s residence.

On June 24 the heads of “Haikakan Zhamanak”, “Haik”, “Hraparak”, “Taregir”, “Chorrord Ishkhanutiun”, “Iravunk De Facto”, “Aravot” newspapers, “A1+” TV company, Yerevan Press Club, Committee to Protect Freedom of Expression, “Asparez” Journalist’s Club of Gyumri and five human rights NGOs addressed a letter to the Assistant US Secretary of State for Democracy, Human Rights and Labor David Kramer, who was in Armenia on an official visit. The letter contained a request to David Kramer to support the plight to Armenian authorities for the early release of Arman Babajanian, the founder and the Chief Editor of “Zhamanak” newspaper, published in Yerevan (as “Zhamanak-Yerevan”) and in Los Angeles. Arman Babajanian was arrested on June 26, 2006 and has admitted charges, the letter said in particular: “His conviction, however, has been widely regarded as politically motivated, given the length of his prison term for a charge that normally draws lighter sentences and considering his political and professional activities. Arman’s newspaper expresses positions critical of the government, and the political aspect of his case has been acknowledged by major international human rights groups in their annual reports, as well as the State Department Human Rights Report for Armenia for 2007.” As in July this year the Editor of “Zhamanak-Yerevan” can re-request early release and taking into account his good conduct, the signatories to the letter asked the Assistant US Secretary of State for his support “in urging the authorities to take that case with due earnestness and compassion”, stating that they “remain committed to continuing efforts towards that outcome”.

On July 1 the heads of “Haikakan Zhamanak”, “Haik”, “Aravot”, “Hraparak”, “Iravunk de Facto”, “168 Zham”, “Taregir”, “Chorrord Ishkhanutiun” newspapers, Yerevan Press Club and the editorial staff of “Zhamanak-Yerevan” daily addressed a letter to the RA Ministry of Justice Gevorg Danielian, requesting to assist the early release of Arman Babajanian. In their letter to the Minister of Justice the signatories expressed hope that “the direct control” from his side would allow “Hospital for Convicts” criminal executive institution (where Arman Babajanian has been kept for quite a long time already), taking into account Babajanian’s positive references, to re-submit the plight for early release/mitigation of

punishment to the Commission above. The authors of the letter stressed their conviction that the early release of the Chief Editor of “Zhamanak-Yerevan”, imprisoned since June 2006, would help to reduce the political tension in the country.

According to the communication published by “Zhamanak-Yerevan” on July 2, 2008, at the administrative meeting of “Hospital for Convicts” on July 1 the issue of Arman Babajanian's early release had not been discussed. In the opinion of the editorial staff, the date of the meeting (they are normally held every month) was not chosen incidentally: the previous request of Arman Babajanian for the administration to file a plight with the Commission was considered at the session of April 3, the journalist was then refused, the next application could only be considered in three months' time. In other words, the newspaper summed up, if the administration held its meeting on July 3 or later, it would have to re-discuss the issue of the plight for the early release of “Zhamanak-Yerevan” Chief Editor.

On July 3 the Executive Director of Europe and Central Asia Division of “Human Rights Watch” international organization Holly Cartner addressed a letter to the RA Prime Minister Tigran Sargsian and the RA Minister of Justice Gevorg Danielian to support Arman Babajanian. The letter stressed that the Chief Editor of “Zhamanak-Yerevan” had already spent two years in prison and the 1.5 years that he had yet to serve were disproportionate to the offense: normally the punishments for such offences does not exceed 2-3 years of imprisonment. Holly Cartner urged the authorities to take into account the good conduct of Arman Babajanian and support the request of his early release. “Babajanian’s release would send a positive signal to both Armenia's international partners and to Armenian public that you and other senior officials are concerned about the present critical state of human rights in Armenia and taking concrete steps to address particular concerns”, the letter of Executive Director of Europe and Central Asia Division of “Human Rights Watch” Holly Cartner concluded.

On July 4 the court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan nullified the decision of the administration of “Hospital for Convicts” on April 3, 2008, refusing the application of Arman Babajanian with a request to administration to file a petition with the Commission on Early Release and Release on Parole. On July 8 to execute the ruling of the court the administration of “Hospital for Convicts” addressed a plight for the early release of Arman Babajanian to the Commission on Early Release and Release on Parole.

In the statement issued on July 8 the CPJ Europe and Central Asia Program Coordinator Nina Ognyanova stressed: “Arman Babajanian's real 'crime' was his critical journalism. Though he pleaded guilty to draft evasion, he was slammed with an excessively harsh sentence. We strongly urge Armenia's new leadership to do the right thing and mend the country's tarnished press freedom record by granting early release to Babajanian and allowing him to work as a journalist without fear of reprisal.”

On July 18 the Commission on Early Release and Release on Parole refused the plight for the early release of Arman Babajanian.

On August 11 the Chief Editor of “Zhamanak-Yerevan” daily released a statement announcing a hunger strike that he started to protest his possible transfer from “Hospital for Convicts” penitentiary institution to “Nubarashen” institution. According to information that Arman Babajanian had received, in “Nubarashen” his life and health would be endangered. In his statement Arman Babajanian also reported that as a result of a search in his hospital chamber on August 2 he received a reprimand for storing items of primary

necessity, which are not prohibited, according to the “Zhamanak-Yerevan” Editor. According to the supposition made by “Hayk” daily (*of August 7, 2008*), the true purpose of the search and the sanction that ensued was the prevention of further requests of Arman Babajanian for an early release, on grounds of his good conduct. In an interview to “Aravot” daily of August 23, 2008, Arman Babajanian said he was transferred not to “Nubarashen” but to “Erebuni” penitentiary institution instead. Arman Babajanian also noted he had stopped the hunger strike since he had received oral guarantees that his life and health are out of danger.

ON JUNE 17 the European Court of Human Rights released its judgment on the case of the founder of “A1+” TV company, “Meltex” LLC and its President **Mesrop Movsesian** versus Republic of Armenia. “A1+” TV company was deprived of air on April 2, 2002 after it was refused a broadcast license by the National Commission on Television and Radio (NCTR). The TV company had further taken part in numerous broadcast licensing competitions, but every time its bids scored lower than those of its rivals. The attempts of “A1+” to challenge the decisions of the NCTR in courts remained just as futile: the suits filed by the TV company were refused each time. Having gone through all levels of domestic courts, the founder of “A1+” addressed the European Court of Human Rights. On August 27, 2004 the suit of “Meltex” LLC and its President Mesrop Movsesian versus Republic of Armenia was lodged with the ECHR.

The case was examined through five clauses: the victim status of Mesrop Movsesian, the second applicant; the recognition of the seven refusals of a broadcasting license in 2002-2003 to be a violation of Article 10 of the European Convention of Human Rights and Fundamental Freedoms (“Freedom of Expression”); recognition of the results and processes on the suits of “Meltex” LLC during the same period at Armenian courts to be a violation of Article 6 of the European Convention (“Right to Fair Trial”); recognition of decisions by NCTR and domestic courts to be politically motivated - in violation of Article 14 of the European Convention (“Prohibition of Discrimination”); compensation of the pecuniary and non-pecuniary damage in accordance with Article 41 of the European Convention (“Just Satisfaction”).

The ECHR declared the complaint of the applicant admissible on the second clause. Thus, the refusals to grant a broadcast license to “Meltex” LLC were recognized to be a violation of Article 10 of the European Convention, i.e., of the right of the applicant to freely impart information and ideas. The ECHR noted that the Armenian broadcasting legislation stipulates a number of criteria to determine the winner of the broadcast licensing competition, but at that time it did not explicitly require that the licensing body give reasons for the decision made. In other words, NCTR simply announced the competition winner, without giving any reasons why that applicant was chosen over “Meltex” LLC. In the opinion of the ECHR, the licensing procedure which did not require a licensing body to justify its decisions did not provide adequate protection against arbitrary interference by a public authority with the fundamental right to freedom of expression. In its decision the European Court also recalled the guidelines adopted by the Council of Europe’s Committee of Ministers in the domain of broadcasting regulation, which called for open and transparent application of the regulations governing licensing procedures and specifically recommended that “all decisions taken (...) by the regulatory authorities (...) be (...) duly reasoned”. The judgment also quoted the PACE Resolution on Armenia of January 27, 2004, which concluded that “the vagueness of the law in force had resulted in (NCTR) being given outright discretionary powers”.

The ECHR committed the Republic of Armenia to paying “Meltex” LLC 30,000 Euros within

three months after the enforcement of the judgment: 20 thousand in respect of non-pecuniary damage and 10 thousand to in respect of costs and expenses incurred.

The judgment of the European Court on the case of “A1+” was characterized by the Council of Europe Secretary General Terry Davis as “a victory for freedom of expression”, called “to serve as a lesson to all governments inclined to arbitrary interpretations of Article 10 of the European Convention on Human Rights, which guarantees this essential freedom”. “The decision of the European Court of Human Rights brings an end to the long drawn-out saga about the refusal of the Armenian authorities to award a broadcasting license to the A1+ television station. The decision comes after numerous calls from different bodies of the Council of Europe have been ignored by the Armenian authorities. All member states of the Council of Europe are legally bound to comply with the European Convention on Human Rights. They should do so without being reminded of their responsibilities by the European Court of Human Rights”, the statement of the CE Secretary General of June 18 noted.

In the statement, released by Yerevan Press Club on June 18, there was an appeal to “the competent bodies of RA not to confine to the monetary compensation, stipulated by the ruling of the European Court, but to adopt, in accordance with the legislation of the country, prompt measures to enable the TV company to come back on air as soon as possible. Only the acknowledgment by the Armenian authorities of the injustice that was made with regard to “A1+” and the practical steps aimed at its elimination can be a sign of our state's respect towards democratic values and international legal norms”. “The ruling of the European Court was an obvious proof of the incompliance of the RA broadcasting legislation with the standards of the Council of Europe, which was repeatedly stated by Yerevan Press Club over the past years. Taking into account the recommendations of Resolution 1609 of the Parliamentary Assembly of the Council of Europe of April 17, 2008, the demands of the journalistic community of the country, as well as the circumstance that already this year new broadcast licensing competitions will be announced, we call on the RA National Assembly to immediately take up the reformation of the RA Law “On Television and Radio”, adjacent laws and normative acts. It is expedient to form new legal conditions and procedures for the regulation of the broadcast sphere during the upcoming months. The adequate application and implementation of the laws has equal significance for the freedom of expression in Armenia. In this regard we continue to insist on our demand to take steps against persons and structures, responsible for the violation of legislation ahead of, during and after the elections of the RA President of 2008. The judgment of the RA Constitutional Court of March 8, 2008, the extraordinary report of the RA Human Rights Defender, published on April 25, 2008, the numerous media reports and statements of public organizations listed multiple references to such violations, yet they all remain without consequences. We hope that the judgment of the European Court of Human Rights on the case of “A1+” will have a sobering effect on Armenian authorities, will help them realize that it is impossible to live in a civilized community and ignore its norms, endangering the international reputation of the country and its people”, the statement of Yerevan Press Club said.

At the press conference, held on June 18 in Yerevan, the RA Deputy Minister of Justice, the plenipotentiary representative of the RA Government at the European Court of Human Rights Gevorg Kostanian noted, in particular, that, in accordance with the procedure adopted, by the judgment of ECHR the Armenian authorities will undertake an investigation to determine whether the violation of the right to freedom of expression was due to incompetent actions of officials or deficiencies in the legislation.

On June 19 the US-based Committee to Protect Journalists urged the Armenian authorities “to view this ruling as a signal to grant a license to the station”: “By granting a license to ‘A1+’, newly elected President Serge Sargsian will demonstrate his commitment to press freedom in the country.”

On November 6 the government of Armenia made a decree to allocate to the RA Ministry of Justice 30,000 Euros to fulfill the judgment of the European Court of Human Rights on the case of “A1+”.

Yet the chance for the company to get back on air as soon as possible was never given (*see below*).

ON JUNE 20, at about 17.00 by the Freedom Square in Yerevan a conflict between a representative of law enforcement body and free-lance journalist **Gagik Shamshian** occurred. According to Gagik Shamshian, he was shooting the police officers as they were taking shields, helmets, rubber batons and other special equipment out of the cars, when the head of Kanaker-Zeytun Police Department of Yerevan Gagik Vardanian came up to him, started abusing and beating him. Gagik Shamshian said the violence against him stopped only after another law enforcer intervened. He also told that on the same day, a bit later, he came across Gagik Vardanian again at the opposition rally by Matenadaran (ancient manuscript storage) and the police officer attempted to continue “the conversation”. Yet he was stopped by the rally participants and other journalists.

IN THE EARLY MORNING OF JUNE 24 from the news stalls in Artashat city (Ararat region) an ordinary issue of “**Haikakan Zhamanak**” daily was collected. This was reported by “Haikakan Zhamanak” the next day, June 25. The daily thought this could be due to a piece, titled “Quite Seriously” (“*Haikakan Zhamanak*”, June 24, 2008), discrediting to the RA President Serge Sargsian and the Head of the RA President’s Office Hovik Abrahamian (who comes from one of the villages in Artashat vicinity and used to hold senior positions of city and regional level in 1995-2000).

ON JUNE 25 in Strasbourg at the plenary session the **Parliamentary Assembly of the Council of Europe** adopted Resolution 1620 (2008) “The Implementation by Armenia of Assembly Resolution 1609 (2008)”. Resolution 1620 (2008) was developed basing on a report of the same name, produced by the Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe (co-rapporteurs Georges Colombier and John Prescott). Resolution 1609 (2008) “The Functioning of Democratic Institutions in Armenia” was approved by PACE on April 17, 2008 (*see above*).

Section 2 (“Fulfillment of the Assembly’s Requirements”) of the Monitoring Committee report, submitted to PACE consideration, noted, in particular, the public hearing on media reform organized by the relevant committee of the RA National Assembly on June 4 in Yerevan. “On the basis of this hearing a legislative package has been prepared and sent to the competent sectors of the Council of Europe for opinion. The hearing concluded that further dialogue between the authorities and the opposition is needed to overcome a lack of public trust in the current media environment”, the report of the Monitoring Committee said (Paragraph 47). In Paragraph 48 the Monitoring Committee took note of the recent judgment of the European Court of Human Rights, which found the refusal of the Armenian authorities to grant a broadcasting license to “A1+” TV company to be a violation of Article 10 of European Convention of Human Rights and Fundamental Freedoms (*see above*). “The granting of a license to this independent and popular TV channel has been a long-standing demand of the Assembly. We urge the authorities to grant the broadcasting

license to this channel without further delay”, the report of the Monitoring Committee stressed.

Resolution 1620 (2008), approved by PACE on June 25, quoted the four main requirements of the Resolution 1609 (2008) of April 17, 2008, also that “to initiate an open and serious dialogue between all political forces in Armenia” with regard to a number of issues, including freedom and pluralism of the media (Paragraph 1.4 of Resolution 1620). Paragraph 6 of Resolution 1620 (2008) said: “The Assembly recalls that there is a need for a pluralistic electronic media environment in Armenia and, referring to the decision of the European Court of Human Rights concerning the denial of broadcasting license to ‘A1+’, calls on the licensing authority to now ensure an open, fair and transparent licensing procedure, in line with the guidelines, adopted by the Committee of Ministers of the Council of Europe on March 26, 2008 and with the case law of the European Court of Human Rights.”

JULY 2008

ON JULY 8 in Yerevan a conference was held on “Media Diversity in Armenia”, organized by the Council of Europe, OSCE and Yerevan Press Club. The conference participants, representatives of media, professional associations, official structures and political parties of Armenia, international organizations and diplomatic missions discussed the urgent issues of the media of the country: the priorities of media legislation reformation; the role of broadcasting regulation in ensuring diversity of opinion; the tasks of media owners, professional communities and journalists to attain real pluralism in the news sphere. Upon the end of the conference its participants released Conclusions, noting in particular:

“(…) The problems that were manifest recently in the work of the media, primarily the broadcasters, were reflected in many documents on national and international levels. In the ruling of the RA Constitutional Court of March 8, 2008 it was noted that in the course of presidential elections, held on February 19, 2008, **“effective control of pre-election promotion was left out of the RA CEC attention”**. As regards the body that regulates the broadcast media activities, the ruling of the Constitutional Court said that **“National Commission on Television and Radio was formalistic in terms of complying with the law. As a result of this the media coverage displayed not only bias, but also, in some cases, violations of legal and ethical norms”**.

The extraordinary report of the RA Human Rights Defender Armen Harutiunian, published on April 25, 2008 and titled “On Presidential Elections of February 19, 2008 and Post-Election Situation” described, among other issues, the situation of free expression and media in Armenia. Addressing the pre-election processes, the ombudsman stressed the “strongly critical nature” of the coverage the TV companies gave to one of the presidential candidates. While after the official launch of the pre-election campaign the consequent political bias was mitigated, yet “this did not influence the situation qualitatively”. While presenting the post-election situation, the RA Human Rights Defender characterized the coverage of the opposition rallies by the TV companies as “openly negative”. The TV companies continued presenting the viewpoint of only the pro-governmental politicians. **During the emergency rule (March 1-20, 2008) “factual censorship was implemented”, the report by Armen Harutiunian said, although it is prohibited by Article 4 of the RA Law “On Mass Communication” and was not stipulated by the restrictions provided for by the Decree of the RA President on Imposing Emergency Rule.** As a result, “the publication of several national newspapers was prohibited for their content”, web sites were also blocked. In the opinion of Armen Harutiunian, the restrictions

imposed by the Decree did not contribute to relieving the tension in the society, either: **“A most vivid example of such unacceptable coverage was demonstrated by the First Channel of the Public Television of Armenia, which not only neglected this provision of the Decree, but also once again made a grave infringement of the requirement of Article 28 of the RA Law “On Television and Radio”: “The prevalence of a political stance in the programs broadcast (...) on public television (...) is prohibited”.** The RA Human Rights Defender proposed a number of measures to overcome the situation in place, including: **“To ensure freedom of expression; create conditions to ensure diversity of opinion and impartiality in electronic media. In this regard, the reformation of the broadcasting legislation will have much significance. It is also necessary to guarantee the equal participation of the representatives of power and opposition in the formation of the bodies, regulating and controlling the activities of TV and radio companies.”**

The documents above stressed the need for practical steps to strengthen media freedom and diversity in Armenia. This issue was also raised in the two recent PACE resolutions.

On April 17, 2008 the PACE approved Resolution 1609 (2008) “The Functioning of Democratic Institutions in Armenia”. In Paragraph 8 of its Resolution PACE recalled the commitments of Armenia to the Council of Europe and once again urged the Armenian authorities to make a number of reforms. In particular, Paragraph 8.3 of the Resolution says: **“The independence from any political interest of both National Commission on Television and Radio and the Council of Public Television and Radio must be guaranteed. In addition, the composition of these bodies should be revised in order to ensure that they are truly representative of Armenian society.** The recommendations made by the Venice Commission and Council of Europe experts in this respect must finally be taken into account. The Assembly reiterates that apart from reforming the legislation, the authorities must take steps to ensure freedom and pluralism of the public television and radio on a day-to-day basis. Also, the harassment by the tax authorities of opposition electronic and printed media outlets must be stopped.”

On June 25, 2008 Resolution 1620 (2008) “The Implementation by Armenia of Assembly Resolution 1609 (2008)” was adopted, quoting the four main requirements of the Resolution 1609 (2008) of April 17, 2008, also that “to initiate an open and serious dialogue between all political forces in Armenia” with regard to a number of issues, including freedom and pluralism of the media (Paragraph 1.4 of Resolution 1620). Paragraph 6 of Resolution 1620 (2008) said: **“The Assembly recalls that there is a need for a pluralistic electronic media environment in Armenia and, referring to the decision of the European Court of Human Rights concerning the denial of broadcasting license to ‘A1+’, calls on the licensing authority to now ensure an open, fair and transparent licensing procedure, in line with the guidelines, adopted by the Committee of Ministers of the Council of Europe on March 26, 2008 and with the case law of the European Court of Human Rights.”**

As it was mentioned by the experts in the conference “Media Diversity in Armenia”, those problems were hardly a surprise. They were a consequence of inconsistent reforms and insufficient attention to the recommendations of local and foreign experts, representatives of reputable international organizations.

On July 26, 2006 the OSCE Representative on Freedom of the Media Miklos Haraszti released a report on the state of media freedom in Armenia, also presenting recommendations on the improvement of media freedom situation in the country. Noting

that limited pluralism in the broadcasting sector was a major problem, as a first step to improve the state of broadcasting Miklos Haraszti recommended that “legislative changes provided for by the Constitutional amendment should be prepared by the Government, discussed in a public forum with members of civil society, and passed in Parliament as soon as possible, certainly before the Parliamentary elections in 2007. However, legislative changes should not be limited to a ‘half Presidential - half Parliamentary’ board. The composition of all boards should represent the political and social diversity of the country, and should include NGOs and professional associations”.

As to public service broadcasting, in the opinion of the OSCE Representative, the members of its regulatory body - ***the Council of Public TV and Radio Company - “should not be selected by one political force or by political forces alone”***. The selection criteria, the report stressed, should reflect transparency and ensure both a high level of professionalism and pluralism of reflected views. In order to fulfill the tasks of a genuine public service broadcaster, the Council should carry out continuous monitoring of access of different parties to air time and coverage of their activities, the results of which should be made public.

Among the recommendations on private broadcasting the report noted the need for such amendments of the Law “On Television and Radio” that would be clear about broadcast licensing competition procedures: “The selection criteria must include the interests of pluralism; the licensing process must become more transparent, using more quantifiable, thus publicly controllable benchmarks.” ***Despite the anti-monopoly provision in the broadcast Law stipulating that “each physical or legal entity can be licensed only for one Television and Radio Company”, in Armenia there are people who own several broadcasting companies, which, in their turn, share the same buildings and staff members.*** “This means that there aren’t any guarantees for pluralism in ownership, which, in any society, is the foundation for a pluralistic access to information”, Miklos Haraszti stressed in his report.

The conference discussions showed that there is an urgent need for reforms to improve media plurality. In particular there was a unanimous opinion that the law and practice of broadcast media regulation needs to be brought in line with Council of Europe standards. The agenda of this and other necessary reforms has already been defined over the past years in the above mentioned documents and commonly accepted assessment of media situation in Armenia. The fulfillment of this agenda will enable Armenia to comply with the requirements of PACE Resolutions 1609 (2008) and 1620 (2008) in time for the January 2009 session. To ensure success of this process there is a need for an open and serious dialogue which involves the country’s authorities, international and local experts, civil society and all political forces.”

ON JULY 29 in Geghamabak village (Gegharkunik region) an incident occurred with the correspondent of “**Hetq**” on line **Sara Petrosian** and “**Kyavar**” TV company cameraman **Vardges Khachatryan** (Gavar, Gegharkunik region). On that day the journalists arrived at Geghamabak to get the material on the situation in the community after the elections of village administration head on June 22, 2008. Gagik Barseghian, occupying that position for last 9 years, was elected again. According to Sara Petrosian, after meeting the head of village administration, the journalists talked to the village dwellers and then sat into a car willing to meet the village head and receive his comments regarding the complaints of the villagers. But the way of the car was blocked by a group of community people led by Victor Barseghian, father of the village head. The latter, as the journalist mentioned, started to threaten her and the cameraman and tried to drag them through the open

windows of the car. The journalists were forced to stop their work and leave the village. Sara Petrosian said that stones were thrown on their departing car.

The proceeding on the incident was instituted by Vardenis Police (Gegharkunik region) on October 10 versus a group of Geghamabak villagers, including Victor Barseghian, father of the village head, on Article 164 ("Obstructing the legitimate professional activities of journalist") of the RA Criminal Code. The investigation was stopped on December 8. According to Sara Petrosian, the investigator found no confirmation to the testimonials of journalists regarding the obstruction of their professional activities by a group of villagers. The decision of the investigator was challenged by Sara Petrosian with the Prosecutor's Office of Gegharkunik region. On December 26 the complaint of Sara Petrosian was refused.

AUGUST 2008

ON AUGUST 1 in the city of Ashtarak the administrative officer of "**Haikakan Zhamanak**" daily **Gagik Hovakimian** was brought to a police department, where he was held for about an hour and a half. Gagik Hovakimian had driven the newspaper correspondent Anna Zakharian in an editorial car - for the journalist to report on the situation in the city, in particular, the interrupted transportation service on the day when an opposition rally was to be held in Yerevan. Despite the demands of the editorial staff, the police officers, who had exercised illegal violence against a media representative, have not been held accountable to this day.

ON AUGUST 5 AND AUGUST 6, during the hearings of the case of the member of the Political Council of "Republic" party Smbat Ayvazian in the court of primary jurisdiction of Kentron and Nork-Marash communities of Yerevan the incidents were occurred with free-lance journalist **Gagik Shamshian** and correspondent of "**Chorrord Ishkhanutiun**" newspaper **Gohar Vezirian**. On August 5, upon the order of the judge Gagik Avetisian Gagik Shamshian was put out of the courtroom. The journalist was first locked in the basement of the court building and was further moved to the Kentron Police Department. The next day, August 6, a similar sanction was applied to Gohar Vezirian: upon the order of the same judge the journalist was put out of the courtroom, she was kept for about an hour and half in a room, intended for defendants, and was further moved to Kentron Police Department. Having spent over two hours in the police department, Gagik Shamshian and Gohar Vezirian were released on August 5 and 6 respectively.

The criminal proceedings against journalists were instituted in September, and on December 24 the Kentron Police Department of Yerevan charged Gagik Shamshian and Gohar Vezirian with Part 3 of Article 343 of the RA Criminal Code ("Disrespect to Court"). Part 3 of Article 343 of the RA Criminal Code stipulates a fine ranging from 200 to 500 minimal salaries or imprisonment of two to three months. According to attorney Hovik Arsenian, journalists did not plead guilty, saying it was the judge who exceeded his competence.

As of late 2008 the case was not submitted to the consideration of the case.

ON AUGUST 11 the correspondent of "**Haikakan Zhamanak**" daily **Lusineh Barseghian** was beaten upon leaving home. Two young men of athletic built suddenly attacked her from behind, pushed on the ground and started making blows. Fearing that the noise the journalist made could attract people, the attackers fled. The ambulance took Lusineh Barseghian to "Surb Grigor Lusavorich" medical center where the doctors who had

examined her diagnosed a head injury and a bruise. In the opinion of Lusineh Barseghian, the reason for the attack could have been her professional activities: the incident could be revenge for the critical articles to the address of high-ranked officials.

On August 12 the Head of OSCE Office in Yerevan Sergey Kapinos sent letters to the RA Prosecutor General Aghvan Hovsepian and the Head of the RA Police Alik Sargsian with regard to the attack on Lusineh Barseghian, expressing his alarm at the occurrence and urged the law enforcement bodies to take prompt measures “to find and punish perpetrators of this violent act”.

Criminal proceedings were instituted by the Nor Nork Police Department of Yerevan by Article 118 of the RA Criminal Code (“Beatings”). According to the RA General Prosecutor’s Office, the investigation, made by the Nor Nork Police Department, did not identify the attackers. Three months after the incident, on November 11, the forensic conclusion was received on the case of Lusineh Barseghian, stating her slight injuries. On the same day the case was requalified on Article 117 of the RA Criminal Code (“Intentional slight injury”), and the investigation was suspended.

IN THE EVENING OF AUGUST 18 in the center of Yerevan the acting head of Yerevan office of the **Armenian Service of Radio Free Europe/Radio Liberty Hrach Melkumian** was attacked and beaten. As he was walking along the street, the journalist heard his name called by a man from a park nearby. Hrach Melkumian though this was someone he knew and he came up to the man, who attacked the journalist, pouring swearings to the address of Radio Liberty.

In the statement of the President of Radio Free Europe/Radio Liberty Geoffrey Gedmin of August 19, the incident was qualified as “intentional assault on our staff and programs”. Geoffrey Gedmin expressed his hope that the authorities of Armenia would “make a through investigation and respond to the attack with due haste and seriousness”.

The investigation on the case started at the Kentron Police Department of Yerevan. As of the end of 2008 those guilty were not found.

ON AUGUST 21 Yerevan Press Club, the Committee to Protect Freedom of Expression, Media Diversity Institute-Armenia, “Asparez” Journalists Club of Gyumri, Vanadzor Office of Helsinki Citizens Assembly, Vanadzor Press Club and Transparency International Anti-Corruption Center released a statement **on the incidents that occurred with media representatives in Armenia** (see above). “August 2008 was unrivaled in terms of violence against journalists”, the statement said, “(...) the society that was hoping to have a climate of tolerance established after the tragic events of March 1 witnesses a new wave of violence against press representatives. This happens now when the Republic of Armenia is supposed to make take steps for speedy implementation of PACE Resolutions 1609 (“The functioning of democratic institutions in Armenia”) and 1620 (“The implementation by Armenia of Assembly Resolution 1609 (2008)”), also requiring reforms in freedom of expression.” The representative of NGOs expressed deepest concern “not only at the continuing traditional inaction of the Armenian authorities, but also the fact that the legal professional activities of journalists are all the more often obstructed by officials of court and law enforcement bodies”. “The violence against media has come up to a dangerous line, and the authorities must not only abstractly state their anxiety and make appeals, but also take effective steps to identify all people who committed violence and offences, to punish them as strictly as the law stipulates, regardless of their positions”, the statement of the seven NGOs stressed.

ON AUGUST 28 the RA Government approved the draft law on introducing an amendment to the **RA Law “On Television and Radio”**. “The decision is made in order to ensure the transfer from analogue TV and radio broadcasting to digital system on the territory of Armenia. It was noted that the solution proposed in the draft will allow making a transfer from one system to another in a smooth manner, avoiding the temporary licensing procedures in the transitional period”, the official report of the session says (*quoted by the web-site of the RA Government, www.gov.am*).

The document came as a surprise for the journalistic community. Its approval in the Government was not preceded by an expert discussion, moreover, even after the session the document text remained unavailable. It had not been placed on the web-site, and all attempts of journalists to get it remained futile.

The draft was made public only on September 8, the day the autumn session of the parliament was opened, and without an assessment from the specialized Committee was discussed at the session of September 9. The draft stipulated to add a clause to Article 59 of the RA Law “On Television and Radio”, reading: “Not to announce broadcast licensing competitions till July 20, 2010. The TV companies, whose licenses expire before January 21, 2011, can request prolongation of the license from the National Commission (National Commission on Television and Radio - *Ed. Note*). The license will thus be prolonged for the period requested, but for no longer than January 21, 2011.” As noted above, the need to introduce such a provision is substantiated by the Government by the expected transition from analogue to digital broadcasting in Armenia.

On September 9 Yerevan Press Club, the Committee to Protect Freedom of Expression, “Internews” Media Support NGO, “Asparez” Journalist’s Club of Gyumri, and “Femida” public organization released a statement, qualifying the draft as yet another proof that the governmental initiatives in media domain “are aimed not at ensuring the constitutional right to free receipt and dissemination of information, not at the improvement of the domain, not at the implementation of the commitments to the Council of Europe and recommendations of PACE resolutions, but at retaining and strengthening the total control over broadcasters, currently practiced”. “No matter how hard the draft authors tried, they failed to give a rational explanation as to why the broadcast licensing competitions should be suspended till July 20, 2010 exactly and not, say, till 2012. Which program requires Armenia to start the digitalization in 2010, where and when was it discussed and approved, what is the timeline for the transition? We know that a tentative version of such a program did go through a certain stage of discussions and was strongly criticized by both local and international experts. After this, no documents regarding digitalization was publicized”, the statement of the five professional associations said. Besides, in the opinion of signatories, “the terms of broadcast licensing competitions held to this day failed to ensure fair treatment and transparency”: “This was stated also by the European Court of Human Rights in its ruling of June 17, 2008 on the case of “A1+” TV company. As a result, Armenia has a broadcast domain which, as numerous opinion polls and monitorings show, does not ensure pluralistic and impartial information, does not enjoy public trust. Broadcasters make numerous violations of the legislation that are not penalized by competent bodies. The trends for monopolization of the domain are obvious. Under the circumstances, the Government with its proposal to suspend the competition process in fact contributes to retaining the status, unacceptable for the society and a democratic country.” “The adoption of such laws will result in a situation when we shall enter the era of digital broadcasting with low-quality broadcaster that does not meet the public demand and international standards, is monopolized and hence is easy to control”, the statement

went on to stress. The journalistic NGOs urged the deputies of the RA National Assembly to vote against the draft presented.

Meanwhile, at the parliament session of September 10 the draft law was approved in the first hearing. In the evening of the same day on the initiative of the RA National Assembly deputies an extraordinary session was summoned at which the draft was adopted in the second and third hearings (finally).

On September 12 the President of Armenia Serge Sargsian signed the RA Law "On Introducing an Addition to the RA Law 'On Television and Radio'". Addition to the broadcast Law would be enforced on the tenth day after the official publication, that is, on September 27.

Earlier, on September 26, the OSCE Representative on Freedom of the Media, Miklos Haraszti asked the Government of Armenia to review the addition to the broadcast Law. In his letter to RA President Serge Sargsian, Miklos Haraszti in particular pointed out: "By cutting off any potential applicant broadcasters from entering the market until 2010, the limited pluralism in Armenia's broadcasting sector will be further diminished. A moratorium on new licenses for analogue transmission should not be the first step in the transition to digital broadcasting. Digitalization should not be allowed to reduce diversity and plurality or preserve a lack thereof. If the broadcasting landscape in a country is not sufficiently pluralistic and diverse, it would be appropriate to delay digitalization and undertake other reforms first." In the opinion of Miklos Haraszti, moratorium on licensing meant that Armenia will not be able to comply with the June 2008 decision of the European Court of Human Rights that upheld the case of "A1+" TV company. OSCE Representative also reminded that in April 2008 the Parliamentary Assembly of the Council of Europe, in its turn, also urged Armenia to "ensure an open, fair and transparent licensing procedure" and allow "A1+" to apply for a new license.

On October 6 the Global Campaign for Free Expression "Article 19" expressed its concern about the addition to the RA Law "On Television and Radio". Statement of "Article 19" pointed out that the adopted amendments are directed against "A1+" TV company, contrary to the decision of European Court of Human Rights regarding the case of "A1+". It also contradicted to Article 19 of the International Covenant on Civil and Political Rights, and Article 10 of the European Convention on Human Rights and Fundamental Freedom - both conventions are ratified by Armenia and guarantee freedom of expression. "Article 19" called on the authorities in Armenia "to lift the moratorium on the licensing procedure and to ensure that "A1+" participates in an open, transparent and fair tender prior to the planned digital switchover".

On October 8 RA Government approved another draft law on amendments to the RA Law "On Television and Radio". It regarded the same abovementioned addition to Article 59 of the broadcast Law. The Government offered to allow not only TV companies (as stipulated by amendment, adopted by RA NA on September 10), but also radio companies, whose licenses expire before January 21, 2011, to request prolongation of the license from the National Commission on Television and Radio. On October 16 this draft was adopted by the parliament in the first hearing, and on December 26, at an extraordinary session of the RA National Assembly - in the second hearing and finally.

SEPTEMBER 2008

ON SEPTEMBER 19 International Religious Freedom Report of the US Department

was released. The report was prepared by the Bureau of Democracy, Human Rights, and Labor, and covered the period from July 1, 2007 to June 30, 2008.

In the part of the report devoted to Armenia it was particularly said that "Government generally did not enforce existing legal restrictions on religious freedom", and "the Constitution provides for freedom of religion and the right to practice, choose, or change religious belief".

While speaking about the restrictions on religious freedom, the authors of the report pointed out that in May and June 2008 "the pro-government "Hayots Ashkhar" and "Golos Armenii" newspapers published anti-Semitic and anti-Masonic accusations against former president and current opposition leader Levon Ter-Petrosian". "Local observers viewed the inflammatory articles as attempts to portray the opposition leader as a traitor to the country and stir up anti-Semitic sentiment in a country traditionally known for its welcoming attitudes toward Jews", stressed the US Department report. On June 1, 2008 the First Channel of Public Television of Armenia "broadcast a 10-minute segment on its weekly "360 Degrees" news magazine program, the sole focus of which appeared to be to disparage and undermine the opposition": "The footage incorporated the anti-Semitic and anti-Masonic attacks by 'Hayots Ashkhar' and 'Golos Armenii'." On February 27, 2008, after the presidential elections, "Hailur" news program of PTA First Channel presented a coverage of a post-presidential election opposition rally, "focusing primarily on an Israeli flag - one of many nations' flags in the crowd - with the intention of vilifying Ter-Petrosian, whose wife is Jewish".

"Media outlets continued to label religious groups other than the Armenian Church as "sects" in their broadcasting and transmitted negative programs about them. Various television stations broadcast discussions in which representatives of the Armenian Church and/or other participants labeled religious minority groups as enemies of the state and national unity", emphasized the part of the US Department International Religious Freedom Report devoted to Armenia.

ON SEPTEMBER 29 information appeared on the web site of RA Police about the incident with the Head of "**Radiolur**" news program of **Public Radio of Armenia Artur Sahakian**, which took place on September 20 and continued the next day. During the last days press was writing about the disappearance of Artur Sahakian: he did not show up at the work, did not answer the phone calls. The official information about the incident and the version of the journalist himself that appeared in a number of newspapers on September 30 contradict each other. According to Artur Sahakian, he had to hide because his life was endangered on behalf of the encirclement of the RA National Assembly deputy, businessman Levon Sargsian who worked in agreement with some police officials. Besides, an eyewitnesses of the incident accused the journalist of a rape attempt. Andranik Babayan, a friend of Artur Sahakian, fell a victim of the incident and died in the hospital on September 29, without coming to consciousness after the beating that took place on September 21. On the same day, September 21, Director of "Urbat" Club, Chief Editor of "Urbat Report" weekly, Abel Mikaelian, who was in one of Yerevan cafes together with Artur Sahakian, was beaten. Although the act of violence was to all appearances done by a big group of people, according to the RA Police information above, only one person was arrested, coming to the police and confessing that he beat Andranik Babayan and Abel Mikaelian. On October 2, press informed that two more suspects were detained.

On October 1, 2008 "Aravot" daily published a statement of Abel Mikaelian, in hiding at the moment. Abel Mikaelian urged the media not connect his name, the name of late Andranik

Babayan, as well as “Urbat” Club and “Urbat Report” with the incident of September 20-21.

On October 3 the web site of RA Police published a piece titled “Necessary Clarification”. According to police information, criminal proceedings by Clause 1, Part 3, Article 258 of the RA Criminal Code (“Public Disorder”) were instituted against one of the incident participants that went to the police to give himself up. Two other persons, questioned on October 27 and detained on October 30, were instituted criminal proceedings against - by Clause 1, Part 3, Article 258 as well as Clauses 6 and 14, Part 2, Article 112 of the RA Criminal Code (“Intentional Harm to Health”). Police also stressed that some of the persons involved in this case gave contradictory evidence. Meanwhile, the “necessary clarification” of the police, in its turn, contained obvious contradictions and did not bring any clarity to this complicated story.

Shortly after the incident Artur Sahakian quit his job and left for the USA. As of the end of 2008 the investigation versus the three defendants was about to be completed and was to be submitted to the court. The verdict came on March 23, 2009: all three received different prison sentences.

ON SEPTEMBER 29 hearings on the case of Ijevan municipality (Tavush region) versus “**Investigative Journalists**” NGO, the founder of “Hetq” on-line, started in the Civil Court of Yerevan. In the suit application, filed on June 18 with the Civil Court, the plaintiff demanded to refute the information discrediting to honor, dignity and business reputation of Ijevan Mayor Varuzhan Nersisian - as seen by the city administration to be present in the article of "Hetq" correspondent in Tavush region Voskan Sargsian “Whose Pocket Receives Money from Sand Mine”. The article was published in “Hetq” on May 5, 2008, and also printed on May 20, 2008, in a supplement to “Azg” daily, “Transparent Local Self-Government”, produced by “Investigative Journalists”. The plaintiff also demanded that the respondent refund his expenses for lawyer’s legal services in the amount of 930 thousand drams (approximately \$ 3,100).

On the hearing of September 29, Ijevan municipality brought to the court another suit as well demanding to refute also the information present in the article "Will the Three Commissions Notice the Illegal Use of Sand?" (published in “Hetq” on June 23, 2008, and in the supplement to “Azg” “Transparent Local Self-Government” on July 9, 2008). On November 12 the Civil Court undertook the consideration of the suit, expanded to include one more demand. At the session of December 11 the plaintiff submitted a motion about involving Voskan Sargsian, the author of the articles, as a respondent.

As of late 2008, the hearing of the case continued.

Meanwhile, the “**Investigative Journalists**”, in their turn, applied to the RA Administrative Court with a suit against Ijevan municipality. On July 2, 2008 “Investigative Journalists” required Ijevan municipal administration to give the copies of the session protocol of May 23, 2008 and the decision of the Council of Elderly to allot 930 thousand drams from the city budget to cover the expenses of lawyer’s legal services for the above-mentioned suit versus “Investigative Journalists”. In the written reply of Ijevan Mayor of July 8, 2008, it was said that required information could be provided only by the end of the legal proceedings. “Investigative Journalists” demanded to oblige the administration of Ijevan to give them the information and refund their expenses for lawyer’s legal services in the amount of 114 thousand drams (approximately \$ 380). At the session of November 26 the Administrative Court partially secured the suit of “Investigative Journalists”. According to the court ruling, the municipality must provide the journalistic association with the

information requested. As to the compensation of the NGO's expenses, this had to be made out of Ijevan's city budget, but only partly, for 8,000 AMD (about \$ 26).

OCTOBER 2008

ON OCTOBER 9 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started hearings on the suit of "Hayheghinak" ("ArmAuthor") versus "**Yerkir Media**" TV company. Public organization, defending copyright, demands to oblige the TV company to pay the expenses on lawyer services in the amount of 600,000 drams (approximately \$ 1950), sustained by it during the previous litigation between the two parties in July 2008. This referred to the ruling of Civil Court of Yerevan of July 4. Civil Court secured the suit of "ArmAuthor" demanding to oblige "Yerkir Media" to conclude a licensed contract on using copyright objects. According to "Yerkir Media" Director David Hakobian, the TV company was ready to sign a contract with "ArmAuthor", but, as the court decision came into force, NGO representatives did not address them with this question and addressed the court with a new suit - about recovering lawyer service expenses. David Hakobian thought that the sum required by "ArmAuthor" was too huge. In his turn, the head of "ArmAuthor" Susanna Nersisian stressed that in order to defend the interests of its clients the organization engaged well-reputed lawyers on contract basis, including foreign advisers, whose services were very expensive, and a need of a court suit would not have appeared had "Yerkir Media" timely signed the contract.

The hearing of the case ended on October 27. The court of general jurisdiction of Center and Nork-Marash communities of Yerevan committed "Yerkir Media" TV company to pay the court expenses of "ArmAuthor", amounting to 600,000 AMD.

ON OCTOBER 10 the "Moscow" cinema was to host the first night of "Expropriation" documentary, journalist and publicist **Tigran Paskevichian**. Yet the management of the cinema house decided to cancel the show. According to the author of the film, Tigran Paskevichian, in the morning of October 7, the cinema management asked for a copy of the film for watching and announced in the evening that they will not show it, because the film is "political". Tigran Paskevichian thought that the film touches only social-legislative issue: the 38 minutes long documentary introduces the problems of the dwellers of Kentron community of Yerevan, whose houses were situated in the territories expropriated with the definition "for the needs of the state". The film was screened by the order of "Victims of State Interests" NGO under the project supported by the Open Society Institute Assistance Foundation-Armenia.

ON OCTOBER 10 the RA Administrative Court started hearings on the suit of LLC "Dareskizb", founder of "**Haikakan Zhamanak**" daily, versus Council of Elderly of Kentron community of Yerevan. The plaintiff demands to annul the resolution of the Kentron community Council of Elderly of March 28, 2008, according to which the future renting of the premises occupied by "Haikakan Zhamanak" (37, Israelian str.) should be annulled and handed over to another organization. As the attorney of "Dareskizb" LLC Tigran Atanesian said, in accordance to the contract, "Haikakan Zhamanak" editors' office had been renting the premises free of charge since 2003, and in August 2007 the contract was extended for an indefinite period. The lawyer considered that the resolution of the Council of Elderly was adopted with violations of legislation, in particular, some provisions of the RA Law "On Local Self-Administration Bodies", "On Principles of Administration and Administrative Proceedings". The decision also contradicted a number of principles of the European Charter on Local Self-Administration and Article 1 Protocol No.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

On October 17 the Administrative Court refused the litigation of founder of “Haikakan Zhamanak”. As of late 2008 the editorial office of “Haikakan Zhamanak” continued residing in the premises in question.

ON OCTOBER 21 Civil Court of Yerevan started hearings of the case of Arthur Ghevondian, RA police officer, versus ”**Aravot**” daily. The plaintiff demanded to induce the newspaper to publish a refutation of the information in the article “If Your Neighbor is a Policeman” (*“Aravot”, June 25, 2008*) by Ruzan Minasian, Correspondent of the daily. In the opinion of Arthur Ghevondian, this article discredited his honor and reputation. The publication was devoted to the court session on dispute between Arthur Ghevondian and his neighbors regarding an annex on the roof of building.

During the session on October 21 the defendant motioned that the plaintiff point out specific words or expressions in the article considered by him as discrediting his honor and reputation. On October 22 Arthur Ghevondian provided the necessary clarifications. On October 24 the author of the piece, Ruzan Minasian, in her turn, applied to Media Ethics Observatory (MEO) to receive an expert judgment on the article.

On October 31 Media Ethics Observatory rendered an expert judgment on the article “If Your Neighbor is a Policeman”.

Analyzing the piece, MEO concluded that “there are no obvious violations of Code of Conduct and of international standards”. At the same time, MEO judgment stressed, one phrase arose some doubt: “(...) Ghevondian, making use of his police connections (...)”, which, according to the author of the article, is based on witness evidence, but as it was not followed by an appropriate reference, it was perceived as the author’s words. Besides, the expressions disputed by the plaintiff as “data discrediting his honor and reputation” and “factual inaccuracies”, in the opinion of MEO, “are not facts but conclusions or evaluating opinions, based on the facts containing in the article”. The judgment stressed that neither the truth of this conclusions nor their agreement to reality can be proved, and brings one of the clauses of the decision of European Court on Human Rights on the case of “Lingens vs. Austria” as an example. “Some acute expressions are also used in the article, which reflect the stereotypes rooted in the society, but they either cannot be viewed as an insult from the point of view of professional journalist ethics”, the MEO judgment also stated.

At the session of November 14 Ruzan Minasian presented the MEO judgment to the court. Artur Ghevondian announced that if “Aravot” published the assessment, he would revoke the suit. The next day, November 15, the daily published the text of the judgment. On November 18 the court secured the petition of Artur Ghevondian about revoking the suit. On November 26 the decision of Civil Court of Yerevan was announced to revoke the suit of Arthur Ghevondian versus “Aravot” daily and termination of the court proceedings.

Thus, a precedent had appeared in Armenia. For the first time, upon the request of a party, the self-regulation body made an assessment on the litigation subject, and the opponent party, being satisfied with the content and publicizing of the document, revoked the suit.

ON OCTOBER 22 “**Reporters Without Borders**“ international organization released its seventh annual Worldwide Press Freedom Index. The study was conducted in 173 countries and based on events between September 1, 2007 and September 1, 2008. Armenia was ranked 102-103. RSF study stressed deterioration of the situation in the Caucasus since last year, in particular, in Armenia going down by 25 ranks (it had 77th line

in the previous index), and Georgia going down by 54 ranks (66th line in the previous index). Both countries, as outlined by the “Reporters Without Borders”, “had major problems and introduced states of emergency”.

ON OCTOBER 23 discussion of draft law “**On Freedom of Imparting Information**”, developed by **RA Ministry of Justice**, took place in the Academic Centre of Ecological Right of the Yerevan State University Law Department. Representatives of journalistic associations, also Yerevan Press Club, and international organizations participated in the discussion.

Artak Gevorgian, Chief of the State Legal Department of Legal Acts Assessment of RA Ministry of Justice, who introduced the draft law, pointed out that the new document was called to replace the acting Law “On Freedom of Information”. Artak Gevorgian motivated it by the necessity to bring the legislation in accordance to the amended Constitution. In particular, the procedure of registration, classification and archiving of the information processed by the owner of the information or imparted for him, is not developed yet, as well as the procedure of providing duplicates (copies) of information by state institutions and organizations, local self-administration bodies. These requirements are stipulated by Articles 5 and 10 of the Law “On Freedom of Information”, respectively. And even if the relevant subordinate acts were developed for the acting Law “On Freedom of Information”, they, in the opinion of the representative of Justice Ministry, could contradict to the Constitution.

Such an approach arose objections among discussion participants. They stressed that the acting Law “On Freedom of Information” (adopted in September 2003) is one of the few progressive documents that are highly appraised by the international experts, and have proved their value on practice. Regarding the necessity of developing and approving the by-laws in accordance to the requests of Articles 5 and 10 of the Law (this obligation was put on the government), the journalistic community has been reminding about that for 5 years. And at present there are no obstacles for developing necessary legislative amendments and procedures that will not contradict to the Constitution, with the participation of the interested parties. The journalistic associations expressed their readiness to participate in the improvement of the acting Law and in the development of its by-laws. Representatives of the Justice Ministry, in their turn, promised to introduce the results of the discussion and the approaches of the professional associations to their management.

NOVEMBER 2008

ON NOVEMBER 6 RA Government decided to establish a **Center of Public Relations and Information**. According to the information on the governmental web-site (www.gov.am), the Center was established in accordance with the RA Law “On State Non-Commercial Organizations” with the aim of “conducting research in public relations, transparency of state structures, accessibility, gathering and imparting information”; “realizing general and thematic monitoring and media analyses, research and monitoring of media market”; “studying the international experience in the sphere of public relations and information”; “proposing initiatives, connected with the legislative regulation of media activities”. According to the Government resolution, managing the Center and other authorities were put on the administration of the President of Armenia. RA Ministry of Finance was directed to introduce its offers on the financing of the Center in a month’s period, and the Department of the State Property at the RA Government should introduce “the list and pricing of the property that is supposed to be handed in and/or assigned” to

the new organization for approval.

Decision to establish a Center of Public Relations and Information arose concern of a part of journalistic society that assumed that this state institution could become an instrument for censorship and pressure on media.

ON NOVEMBER 17 at about 20.00 in the center of Yerevan an attack was made on the Chairman of “**Investigative Journalists**” NGO, the Chief Editor of “**Hetq**” online publication **Edik Baghdasarian**. Having left the building, where the “Investigative Journalists” office was located, Edik Baghdasarian headed towards his car when he was assaulted by three strangers. Without saying a word, the offenders started beating the journalist, struck him with a stone on his head. The attackers then left, taking Baghdasarian’s photo camera with them. At the hospital that the journalist was taken to, he got seams put on his head and diagnosed with brain concussion.

On November 18 Yerevan Press Club, Committee to Protect Freedom of Expression, Internews Media Support NGO, Journalists Union of Armenia, “TEAM” Research Center, Media Diversity Institute-Armenia, “Asparez” Journalist’s Club, “A1+” TV company, Armenian Representative of “Scoop” Danish Network Promoting Investigative Reporting, Helsinki Committee of Armenia, “Transparency International” Anti-Corruption Center, “For Sustainable Human Development” Association made a statement, noting that “Edik Baghdasarian had received threats before, and this allows believing that this attack is directly linked to his professional activities”. “For many times already scores are settled with journalists in this mean manner. And every time the authorities assure that they will do everything in their power to identify the perpetrators. Yet the crimes remain undisclosed, with their organizers and implementers unpunished. This lack of punishment unties the hands of those who seek to repress the freedom of expression. We condemn the violence committed against Edik Baghdasarian, and we call on the authorities to refrain from repeated waste of promises, to really disclose the crime and punish those guilty”, the statement of twelve Armenian NGOs said.

Different political forces of the country also condemned the incident with Chairman of “Investigative Journalists”.

On November 18 RA Prime-Minister Tigran Sargsian visited Edik Baghdasarian at the hospital and expressed his confidence that “those guilty would be disclosed in the shortest time possible” (*cited from the release by the Department of Information and Public Relations of RA Government*). Paying greater attention to the formation of atmosphere of mutual tolerance and respect in the society, the Prime-Minister expressed his hope that the dialogue between the government, media and civil society will provide correct decisions for its accomplishment. On the same day, November 18, RA President’s Press-Secretary Samvel Farmanian, stressing that any expression of violence towards journalists is unacceptable, said that RA President Serge Sargsian ordered the law enforcement bodies to find those who attacked Edik Baghdasarian as soon as possible and bring them to trial.

According to the information of the RA General Prosecutor’s Office, Kentron Police Investigating Department of Yerevan instituted criminal proceedings on the incident of November 17 by Article 113 of RA Criminal Code (“Premeditated Injury of Medium Gravity”).

A number of NGOs declared about organizing an action of protest on November 19 in

Yerevan, in front of the RA General Prosecutor's Office. It was aimed against inactivity of the authorities and demands to disclose and punish those guilty in attacking Edik Baghdasarian. The statement of the initiative group organizing the action stressed: "Physical violence against journalists and activists of the civil society has become common in Armenia. The incident with Edik Baghdasarian is just another case. (...) Who is the next?.."

On November 24 the RA General Prosecutor's Office spread information that as a result of activities of the preliminary investigation an identikit of one of the attackers was composed and he was identified. It was also stressed that the law machinery makes efforts to arrest that person as well as other accomplices of the assault. On November 26 Karen Harutiunian came to the police with an acknowledgement of guilt and confessed that he is one of the assaulters of Edik Baghdasarian. According to press-secretary of the RA General Prosecutor's Office Sona Truzian, Karen Harutiunian who gave him up to the police is the person whose identikit was composed and for whom measures of inquiry were applied. Edik Baghdasarian himself did not recognize Harutiunian. He said he caught only a glimpse of the face of an attacker from behind.

As of late 2008 the investigation on the case continued.

DECEMBER 2008

ON DECEMBER 2 Kentron Police Department of Yerevan charged the recently appointed Executive Editor of "**Zhamanak-Yerevan**" daily, member of Political Council and the spokesperson of "Republic" party **Suren Sureniants** on Article 136 of RA Criminal Code ("Insult"). According to Suren Sureniants, the criminal proceedings against him were instituted in August 2008 by the complaint of the establisher of "National Idea" magazine Artem Khachatrian. Suren Sureniants said that in July 2008 Artem Khachatrian published an article in the above-mentioned magazine, in which he spoke disrespectfully about the national hero, late RA Prime-Minister Vazgen Sargsian. Artem Khachatrian's expressions brought on comments of a number of political figures and media. As Executive Editor of "Zhamanak-Yerevan" daily stated, his opinion regarding the personality of Artem Khachatrian was published in "Iravunk de facto" newspaper on August 11, 2008, and this particular publication constituted a ground for instituting the criminal proceedings. In the opinion of Suren Sureniants, the accusation presented was not related to the activities of "Zhamanak-Yerevan", but it was remarkable that it coincided with his appointment to the position of Executive Editor.

In February 2009 Suren Sureniants was notified that Artem Khachatrian had revoked his complaint, and the proceedings were terminated.

ON DECEMBER 18 the provisional version of Parliamentary Assembly of the Council of Europe Resolution "The Implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)" was released after the approval, a day before, on December 17, of the Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). Clause 8.2 of the provisional version refers to the amendments to the RA Law "On Television and Radio", adopted on September 10, 2008, according to which the broadcast licensing competitions are suspended till July 20, 2010 due to the need to make preparations for digitalization (*see above*). This Clause stressed that "the technical requirements for the introduction of digital broadcasting should not be used by the authorities to unduly delay the holding of an open, fair and transparent tender for broadcasting licenses, as demanded by the Assembly".

The provisional version of the new Resolution will be presented for the consideration of the PACE winter session on January 26-30, 2009.

ON DECEMBER 19, 2008 the founder of “**A1+**” TV company, “Meltex” LLC, addressed the RA Court of Cassation with a demand to review the rulings of this judicial body of February 27, 2004 and April 23, 2004 on suits of “Meltex” versus National Commission on Television and Radio - taking into account new circumstance. In February 27, 2004 the Court of Cassation left unchanged the ruling of the RA Commercial Court of January 21, that did not secure the demand of “Meltex” to annul the decision of the National Commission on Television and Radio to grant “Cinemax” LLC a broadcast license for 63rd UHF of Yerevan (claimed also by “A1+” TV company). On April 23, 2004 the Court of Cassation left in force the ruling of the Commercial Court of March 23 that refused the suit of “Meltex” on providing the company with specific justification of the refusals to grant it a license in competitions held on June 11 and July 18, 2003 (*see details in “On Freedom of Speech in Armenia” report for 2007 on YPC web-site, www.ypc.am, “Studies” section*).

According to one of the “A1+” attorneys, Ara Ghazarian, the new circumstance noted above was the judgment of the European Court of Human Rights of June 17, 2008 on the suit of “A1+” founder versus Republic of Armenia. The refusals to grant “Meltex” a broadcast license were recognized to be a violation of Article 10 of the European Convention on Human Rights, i.e., of the right of the applicant to freely impart information and ideas (*see above*).

The application of “Meltex” was accepted for consideration by the RA Court of Cassation in January 2009, and on February 19, 2009 it was refused. The decision of the Court of Cassation said in particular that the court rulings challenged by “A1+” founder were made in accordance with the legislation in force in 2004 and were not subject to revision.

ON DECEMBER 21 the shooting crew of “**Hailur**” newscast of the **First Channel of the Public Television of Armenia** was refused entry for covering the conference of the Armenian National Congress (opposition political bloc led by the RA First President Levon Ter-Petrosian). According to “Hailur” correspondent Anna Vartanian, the External Relations Officer of the Congress Vladimir Karapetian asked the journalists of the Public Television to leave the hall where the conference was taking place. The Congress Coordinator Levon Zurabian described the occurrence as a response to authorities’ refusal to provide the Armenian National Congress with a hall for the conference.