



YEREVAN PRESS CLUB

**2009: UNDISCLOSED INCIDENTS AND
THE UNACCOMPLISHED REFORM OF
BROADCAST LEGISLATION**

Annual Report of Yerevan Press Club

2009: UNDISCLOSED INCIDENTS AND THE UNACCOMPLISHED REFORM OF BROADCAST LEGISLATION

Annual Report of Yerevan Press Club

JANUARY 2009

ON JANUARY 9 the **Media Ethics Observatory considered** the complaint of two members of the RA State Commission on the Protection of Economic Competition regarding “We are Becoming Like European Countries” article, published in “**Aravot**” daily on December 11, 2008. The article was dealing with one of the sessions of the Commission on the Protection of Economic Competition. In the opinion of the complaining party, the article contained factual mistakes, and the professionalism of the Commission members was unreasonably questioned. The Media Ethics Observatory acted as an intermediary in resolving the dispute, offering “Aravot” to publish a response. The response of the Commission members was published in “Aravot” on January 14, 2009.

Media Ethics Observatory was established on March 10, 2007 by the heads of Armenian media who supported the self-regulation initiative of Yerevan Press Club. The mission of the MEO is to consider the complaints about violations of the Code of Conduct of Media Representatives and make judgments on them.

ON JANUARY 9 correspondents of “**Chorrord Ishkhanutiun**”, “**Aravot**”, “**Haykakan Zhamanak**”, “**Taregir**”, “**Zhamanak**”, “**Hraparak**” newspapers, “**A1+**” TV company released a statement regarding the obstacles that they face in covering the trial on “The Case of Seven” (the separate trial of the case of seven supporters of the RA First President Levon Ter-Petrosian, charged with the organization of mass disorders and attempts for violent seizure of power). At the hearing of the case that started on December 19, 2008 in the court building of Shengavit community of Yerevan, the statement of the journalists stressed, the judge at chair, “with the consent of all parties ruled to make no restrictions on the activities of media - reporting on the court session, being present in the court room, making video, audio and photo records”. However, the statement went on saying, at the subsequent three sessions the court bailiffs either did not allow the reporters in the courtroom, offering them to follow the process by monitors in a designated room, or let in selectively, prohibiting the journalists from having recording equipment on them. Qualifying the occurrence as obstruction of journalistic activities, violation of the RA Constitution and RA Law “On Mass Communication”, the signatories called on the relevant bodies to ensure the necessary conditions for their work, not to restrict the right of journalists and society to complete and comprehensive information on the trial.

ON JANUARY 14, in accordance with the ruling of the RA Court of Cassation, the court of general jurisdiction of Shirak region started new hearings on the dispute between Gyumri municipality and the founder of “**GALA**” TV company, “CHAP” LLC, regarding the right to use the city TV tower. On October 31, 2008 the Court of Cassation abolished the ruling of the court of primary jurisdiction of February 29, 2008, according to which “GALA” founder was to stop using the city TV tower and to disassemble the equipment installed on it. The Court of Cassation decided that the case should be redirected for re-consideration by the court of general jurisdiction of Shirak region (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section*). At the session of January 14 the city administration submitted to the court the resolution of the Gyumri Council of Elderly of December 25, 2008 that allows the municipality to lease the city TV tower to the TV company for one years’ time with a monthly rent of 100,000 AMD

(around \$ 330). The representative of "CHAP", on his behalf, noted that the LLC owner was not invited to the session of the Council of Elderly and was notified of the resolution only on January 13, 2009, that is, a day before the court session. Besides, in the opinion of "CHAP", the rent was apparently exaggerated. Representative of "CHAP" filed two motions: about receiving a certificate from the Gyumri territorial subdivision of the RA State Cadastre regarding the possibility for "GALA" TV company to use another city TV tower and about a technical court assessment of the tower in question. Both motions were accepted by the court.

On May 18, 2010, only a year and four months after the assignment of the court assessment, representatives of RA Expertise Centre visited "GALA" TV company for examining the TV tower.

ON JANUARY 14 the international "**Human Rights Watch**" organization released its report on human rights practices in over 90 countries of the world in 2008.

After February 2008 presidential elections Armenia experienced one of its most serious civil and political rights crises since independence, the report said in the section dealing with Armenia. Particularly, with the introduction of the state of emergency several basic freedoms were restricted, including the freedom of expression and access to information. As to the situation with media freedom, the report stressed, that "the police targeted journalists covering the February demonstrations". "Human Rights Watch" listed cases of interfering with journalists' work by the law enforcement bodies in the post election period in Yerevan and Gyumri: incidents with freelance journalist Gagik Shamshian on February 29 and March 1, 2008, with the correspondent of the Armenian Service of Radio Free Europe/Radio Liberty Ruzanna Stepanian on March 1, 2008 and others. The report noted, that while the state of emergency was in action publications in media on state and internal political issues were only allowed using official information. RA National Security Service hindered publication of at least seven opposition and independent newspapers and blocked web-sites, even after March 13, 2008, when changes to the Decree on State of Emergency were modified, the report said. "Human Rights Watch" touched upon the two court decisions: the European Court of Human Rights ruling of June 17, 2008 on the case filed by the founder of "A1+" TV company, "Meltex" LLC, against the Republic of Armenia, and the RA Cassation Court ruling of October 31, 2008 on the case of "GALA" TV company of Gyumri. The refusals to grant a broadcast license to "A1+" were recognized by European Court as 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. As to "GALA", the highest court instance of Armenia abolished the ruling of court of general jurisdiction of Shirak region on dispute between Gyumri municipality and founder of "GALA", "CHAP" LLC, thus allowing the TV company continue usage of the city TV tower. The report also spoke about the arson attempt on Gyumri Journalists' Club "Asparez" on January 19, 2008 and torching the car of "Asparez" President on March 21, 2008; about beating of the "Haykakan Zhamanak" correspondent Lusine Barseghian on August 11, 2008 and Acting Director of the Yerevan Bureau of the Armenian Service of RFE/RL Hrach Melkumian on August 18, 2008; about the rejection of the Commission on Early Release and Release on Parole to early release the Editor-in-Chief of the "Zhamanak-Yerevan" newspaper Arman Babajanian.

ON JANUARY 16 free-lance journalist **Gagik Shamshian** suffered during an incident next to the building of the court of general jurisdiction of Shengavit community of Yerevan. Gagik Shamshian told YPC that he was stricken off his feet by the policeman while shooting the action to support the defendants charged with the so-called "Case of Seven"

(the separate trial of the case of seven supporters of the RA First President Levon Ter-Petrosian, charged with the organization of mass disorders and attempts for violent seizure of power). Gagik Shamshian said that as he was falling down he slipped and hit his head against a post. Later, at the editorial office of “Chorrord Ishkhanutiun” newspaper the journalist felt unwell and was taken to one of Yerevan’s hospitals. According to Gagik Shamshian, after an X-ray examination the doctor said he had a slight head injury. The journalist also stressed he had a photograph of the police officer who struck him. On January 19 Gagik Shamshian was called to the police department of Shengavit community for explanations.

At the moment of the publication of present report there was no new information on this case.

ON JANUARY 27 at the winter plenary session of the Parliamentary Assembly of the Council of Europe **Resolution 1643 (2009) “The Implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)”** was approved. As it has been reported, the draft resolution was released by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe on December 18, 2008, and stipulated a sanction of suspension of voting rights of the Armenian delegation (see details in *“On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section*). The adopted text of this document did not provide for such a sanction.

Clause 10 of Resolution 1643 (2009) dealt with the situation in the media domain. Thus, in item 10.1 the PACE “welcomes the proposals made with a view to ensuring the independence of the media regulatory bodies in Armenia and calls upon the authorities to fully implement the forthcoming recommendations of the Council of Europe experts in this regard”. Item 10.2 of the Resolution referred to the amendment to the RA Law “On Television and Radio”, adopted by the Armenian parliament on September 10, 2008, according to which the conductance of broadcast licensing competitions is suspended till July 20, 2010 due to the need to prepare the transition from analogue to digital broadcasting. With this item the PACE underlined 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”.

FEBRUARY 2009

FEBRUARY 2-5 The agenda of the first four-day session of the RA National Assembly included the **package of amendments to the RA Laws “On Television and Radio”, “Statutes of the RA National Assembly”, “Statutes of the RA National Commission on Television and Radio”, “On State Duty”**. Yet the documents submitted to the consideration of the parliament, similarly to the previous versions of this legislative package, did not address any of such key issues of the broadcast sphere as ensuring plurality of the regulatory body, transparency of broadcast licensing competitions, distinct criteria for the decision-making of the National Commission on Television and Radio in licensing process, development of the mechanisms of the regulation of the activities of Public TV and Radio Company, the digitalization of broadcasting in the context of Armenia’s commitments to the Council of Europe. It is the need to solve these issues that the journalistic associations of the country and international experts have been insisting on for many years already. Moreover, the renewed package displays a number of other shortcomings as well.

On February 3 Yerevan Press Club, “Internews” Media Support NGO, the Committee to protect Freedom of Expression and the Media Diversity Institute Armenia released the following statement:

“Discussion of the updated package of amendments to broadcast legislation is on the agenda of the regular session of National Assembly of Armenia. The quality of that document has exceeded our worst expectations: the number of lexical, logical and legal lapses has made it useless to subject it to detailed analysis especially since our organizations, for the last years, have been consistently and constructively responding to all the legislative initiatives in the area of the mass media, comprehensively assessing all the official legislative drafts and promoting their own suggestions. In particular, in December, 2008 Yerevan Press Club and Internews submitted their detailed comments on the previous version of that legislative package to the relevant parliamentary commission. Virtually, none of our crucial remarks were taken into consideration. Instead, new provisions appeared in the draft amendments to the RA Law “On Television and Radio”, a part of them deserving to be called nothing more than “nonsense”.

In November, 2008 representatives of our organizations were invited to become members of the working group on media legislation at the Standing Committee of NA on Science, Education, Youth and Sport. The first meeting of the group took place on November 20. On December 19, 2008 the National Assembly organized hearings on some aspects of broadcast media regulation. However, those undertakings, apparently, were of no benefit. As for the new version of the legislative package, NA did not even find it necessary to present it to the working group. In that case, why the group was formed for at all? Once again, we have to state that various civilized forms of legislative process have an exclusively “decorative” function here. In such a situation, and taking into consideration the quality of the document that was proposed for discussion at the parliamentary session, further serious work at that document would mean expressing disrespect to our own professional dignity.

Not going into the details, indicative of the drafters’ incompetence and negligence, we will take the liberty of pointing at the main methodological mistakes (or deliberate tricks?) that have appeared in the updated package, in addition to the already-existing ones. To begin with, it is a matter of crude substitution of concepts. Since the first day of the adoption of the Law “On Television and Radio” in 2000, local experts and representatives of international organizations have been talking about the need for legislative guarantees of social-political diversity at the Council of Public Television and Radio Company. Instead, the drafters suggest professional diversity (expert in journalism, expert in broadcasting or telecommunications, business or finance manager, etc.). Secondly, the drafters have invented an oath for the members of the Council, as well as the National Commission on Television and Radio, without devising any real guarantees for the independence of those bodies, the necessity of which is being constantly talked about. The demand to take an oath of devotion to civil society, freedom of information and other lofty principles, in the absence of reliable mechanisms contributing to independence, pluralism and accountability to the society, only increases the concentration of hypocrisy that is already a big problem in our public life. Once again, the two above-mentioned crucial shortcomings of the legislative package are but a small part of unacceptable provisions and absurdities contained in it.

In its Resolution 1643 (2009), Parliamentary Assembly of Council of Europe calls upon the authorities of Armenia “to fully implement the forthcoming recommendations of the Council

of Europe experts” in regard to the independence of the media regulatory bodies in the country. We don’t know about the contents of the latest recommendations of CoE experts, although the members of the above-mentioned working group, probably, should have been notified of them (otherwise, how can they help the specialized commission?). However, there is no doubt about the fact that PACE Resolutions 1609 (2008) and 1620 (2008), as well as the numerous appeals of the OSCE Representative on Freedom of the Media concerning broadcast legislation, have not been adequately reflected in the draft laws proposed for discussion.

Besides, the provision of Resolution 1643 on canceling all tenders for broadcasting frequencies until July 20, 2010 has been totally ignored. PACE emphasized 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.” Meanwhile, the related amendment to the Law “On Television and Radio”, adopted on September 10, 2008 in defiance of all the democratic and procedural norms, underwent no changes by the package drafters.

Unfortunately, everything happening around broadcast legislation indicates that NA deputies simply have not realized the necessity of learning a lesson from the situation when the delegation of Armenian parliamentarians faced the real threat of losing the right to vote at PACE. Reassuring themselves and people around them with exorcisms about gradualness of reforms, including in the area of freedom of speech, as well as the impossibility of approaching European standards in a brief period of time, they continue to discredit the very concept of reforms in the sphere of information, harming the reputation of the country and the prospects of its democratic development.

Here are some facts to back up our statement. The first version of the legislative package that gave rise to this statement emerged in June, 2008. Since then, the apparent shortcomings in the draft laws not only have not been removed but have been supplemented with new, more glaring lapses. Not to mention that drastic improvement of broadcast legislation has been on the agenda for more than eight years. Is it what we call gradual reforms?

Under the circumstances we have no choice but to urge the deputies of the National Assembly to quickly forget the package proposed for discussion for the current four-day session, return to one of its previous versions and work at the fundamental revision of the document, taking into account the numerous remarks and suggestions of the working group members, as well as the recommendations of international organizations and their experts”, the statement of four journalistic organizations said.

Discussion on the package of amendments to the broadcast law was postponed to the next four-day session of the National Assembly.

On February 26 at a regular parliamentary session the deputies unanimously voted for the adoption of the amendments package in first hearing. In the course of the legislative package discussion, the then Head of the NA Standing Commission on Science, Education, Youth Issues and Sport Armen Ashotian announced that after the document is adopted at the first hearing it will be presented to the Venice Commission for experts’ assessment.

On April 9, Yerevan Press Club, Internews Media Support NGO, Media Diversity Institute-

Armenia, Committee to Protect Freedom of Expression, "Asparez" Journalist's Club and Vanadzor Press Club made a new statement.

"The agenda of the RA National Assembly includes the second hearing of the package of draft amendments to the RA Laws "On Television and Radio", "Regulations of the National Commission on Television and Radio", "Regulations of the RA National Assembly", "On State Duty". Despite the few improvements against the previous version of the package strongly criticized by our organizations in the statement of February 3, 2009, the document, as we see it, remains far from the demands of the time.

Any legislative initiative on television and radio must today be assessed from the perspective of solving the four cornerstone problems of the Armenian broadcast sphere:

- ensuring the independence of the National Commission on Television and Radio - the body that regulates the activities of TV and radio companies;
- real reformation of the Public TV and Radio Company, inclusion of PTRC in the field of legal regulation, creation of mechanisms of its responsibility and accountability to the society;
- formation of new legal conditions of impartial and transparent broadcast licensing competitions;
- revocation of the ban on allocation of frequencies.

The legislative changes that do not entail basic solutions to the problems above can be only seen as cosmetic. In this regard the improvement of certain provisions of the draft law package on broadcasting, proposed for the second hearing by the RA National Assembly, are nothing but a reform imitation and do not in any way contribute to overcoming the total control of the authorities over the TV and radio air in Armenia.

As a main argument to support the package its authors refer to the positive assessment of the Council of Europe expert. Meanwhile, the CoE assessment, while phrased in a very polite and cautious manner, contains criticism of a number of important clauses of the drafts. In particular, this document clearly states the absence of due guarantees to the independence of the National Commission on Television and Radio and the Council of Public TV and Radio Company, as well as about the incompliance of the PTRC structure to the internationally accepted standards of good governance.

Even if one shares the satisfaction of the CoE expert with most of the remaining provisions of the package, the two mentioned shortcomings, referring to the cornerstone issues of the broadcasting legislation, render the voting of the RA NA deputies for the package questionable. What is the value of amendments to the RA Law "On Television and Radio", if they do not call for a basic review of the mechanisms permanently criticized over the past 12 years, ever since the debate of the broadcast legislation started?

It is quite surprising that the Council of Europe expert, assessing the package of the draft law on regulating the broadcasting, overlooked the recommendations of the Resolutions of the Parliamentary Assembly of the Council of Europe 1532 (2007), 1609 (2008), 1620 (2008) and 1643 (2009). Addressing the issues of Armenia's compliance with its commitments to the Council of Europe and functioning of democratic institutions in the country, these Resolutions, proceeding from the political situation in the country, define the

agenda of reforms, also with regard to media. The recommendations raise the issues of independence of the regulatory body, the transparency of broadcast licensing competitions, and the possibility of “A1+” TV company taking part in them, the ban on frequency allocation. Considering the draft package without taking into account the four most recent PACE recommendations on Armenia, the Council of Europe expert, on the one hand, actually overlooked some questionable provisions of the legislation in force (first of all, the ban on frequency allocation), and on the other - assessed a whole number of legislative innovations without taking into account the problematic practices of late (transparency and impartiality of broadcast licensing competitions).

The expert welcomes the expansion of Article 50 of the RA Law “On Television and Radio” that call for the provision of “full reasons” to the applicants that were refused a license. A reference is made here to the judgment of the European Court of Human Rights of June 17, 2008 on the case of “A1+” TV company founder, “Meltex” LLC. Yet, in essence, the new draft law proposes nothing new with regard to justification of license refusal, the mechanisms of defining criteria that NCTR members should be guided with during the assessment of the applications are still not prescribed.

One could have quoted a number of other examples of the insufficiently thorough analysis of the draft law package by CoE expert. Yet the problem lies not with the particularities, but with the technique that the media legislation is being shaped with in Armenia. Despite the fact that a working group of local experts is set up adjacently to the specialized standing committee of the National Assembly, the recent drafts have not been discussed with this working group. The international experts meet and discuss drafts only with their authors or MPs interested in the draft promotion. Objections, comments, clarifications as to the problems of practical applications of certain clauses that the representatives of Armenian media community could share, public debate - all this is of no interest to any one for a long time already. Such closed process of legislation formation cannot yield other results than the ones we have today.

Meanwhile, when the authorities are interested to promote certain initiative, even if extremely unprofessional in its development, it is immediately in the limelight of attention, debate is raised about it on all TV channels. A vivid example of this is the draft law on introducing new provisions to the Civil Code, stipulating moral damage compensation that has made so much noise lately. The vehement endorsement of this initiative can be hardly regarded as anything other than an attempt to divert the public attention from real problems in media, obstruction of efforts of journalistic organizations in legislation and media self-regulation.

Unfortunately, such red herrings have been used more than once and run contrary to the policy of strengthening civil society as declared by the RA authorities.

Proceeding from this, we call on the RA National Assembly:

1. To revoke from circulation the package of draft laws on broadcasting and to come back to it after thorough review and improvement in accordance with the international commitments of Armenia and the suggestions of the working group at the RA National Assembly Standing Committee on Science, Education, Culture, Youth and Sport. Otherwise we see no point in further participation in the working group and shall call back our representatives from it;
2. To immediately include a draft law on abolishing the ban on holding broadcast licensing

competitions in the agenda of the National Assembly. To refuse from the idea of digitalization at the expense of free competition and media plurality. To hold open debate of the TV and radio broadcast digitalization program;

3. To delay the initiatives related to new forms of journalistic liability for defamation until the completion of processes aimed at improving the broadcast legislation, guaranteeing true public service broadcasting, pluralistic private TV and radio, media accountability system formation. The attempts of prioritizing the issue of legal liability of journalists damaging the development of civilized media market will be viewed by us to be directed at the restriction of free expression in Armenia”, the statement of six journalistic associations said.

The journalistic associations have presented their proposals to the National Assembly specialized standing committee. Nevertheless, despite the assurances of the amendments authors, none of the proposals were reflected in the document presented for second hearing. On April 28 the package was passed in the second hearing and finally. It was signed by RA President on May 20.

SINCE FEBRUARY 2, the start of the spring session of the RA National Assembly, **restrictions had been introduced on TV camera movement** in the parliament session hall. The cameramen were allowed to make shootings freely during 30 minutes from the start of the sessions, after which the work of the TV cameras was authorized only from certain spots in the back end of the session hall. The restriction does not apply to the sessions devoted to the statements by the deputies as well as question and answer sessions with the Government. Restrictions of TV camera movement are common in the international practice, yet the use of such measures must be strictly defined in the accreditation procedure or the NA Regulations. Otherwise they may be seen as voluntary restrictions of the media freedom.

ON FEBRUARY 10 the US-based **Committee to Protect Journalists (CPJ)** publicized its annual report on attacks on press in different countries of the world in 2008.

In the report section, dealing with Armenia, the situation during presidential elections of February 19 2008 and the post electoral period was described. In particular, the CPJ report said that on March 1 an emergency situation was introduced and the independent news coverage was factually prohibited, and it also listed incidents with media representatives. Of other incidents the report noted the unpunished attacks on the correspondent of “Haykakan Zhamanak” daily Lusine Barseghian on August 11, 2008 and on the head of “Investigative Journalists” NGO Edik Baghdasarian on November 17, 2008. CPJ also noted the judgment of the European Court of Human Rights of June 17, 2008, ruling that Article 10 of European Convention of Human Rights and Fundamental Freedoms was violated with regard to “A1+” TV company, deprived of air since April 2008, and the reaction of the Armenian authorities who, in particular, adopted an amendment to the Law “On Television and Radio”, suspending the conductance of broadcast licensing competitions till July 20, 2010.

ON FEBRUARY 11 at the court of general jurisdiction of Kentron and Nork-Marash of Yerevan during the court session on the case of the former RA General Prosecutor Gagik Jangirian (charged with violence against representative and attempted seizure of power) **an incident between court registrars and journalists occurred**. According to the free-lance photojournalist Gagik Shamshian, upon the instruction of Judge Zhora Vardanian the court registrars suggested that the journalists leave the courtroom. As Gagik Shamshian

said, during the argument that arose between journalists and court registrars, the head of the latter ones Artur Pilosian tore Shamshian's jacket. As YPC was informed by Gagik Shamshian, on the same day, he gave written explanations on the incident at the police of Kentron community, and his jacket was admitted for technical assessment to determine the damage made.

The criminal proceedings instituted on this incident were terminated in the absence of corpus delicti. The damage for the tore jacket was assessed in 2,000 AMD, which were refused by Gagik Shamshian.

ON FEBRUARY 20 the publication of “**Hayk**” daily was suspended. The reason was the suit versus the founder of the newspaper, “Hayk Editorial Office” LLC, filed on February 18 by “Gind” publishing house with the Yerevan Civil Court demanding to pay the liability. On February 19 as a measure to secure the suit the property and the assets of the newspaper were arrested. As YPC was informed by the Chief Editor of “Hayk” Gegham Nazarian, the debt of about 2 million 700 thousand AMD (around \$ 9,000) was accumulated during the period of August-December 2008. In January 2009, Gegham Nazarian noted, there was an agreement reached with “Gind” to the effect of continued publishing of the newspaper with the gradual repayment of the debt till April 1, 2009. According to head of “Hayk”, as of February 9, 2009 the editorial office paid all the publishing expenses, as well as 400,000 AMD as debt repayment. Along with this, on February 9 the newspaper changed the publishing house and started to be issued at “A. Markosian”, where, as “Hayk” Editor mentioned, the prices were lower.

On February 23, as a result of negotiations between the newspaper and the publishing house, “Gind” revoked its suit upon the condition of “Hayk” repaying the dept till April 1, 2009.

Since February 28, after the release of property and assets, “Hayk” daily had resumed publication.

ON FEBRUARY 24 “**Haykakan Zhamanak**” newspaper published an article “Now the Military Police. Was a New Bug Being Installed?”, reporting that on Saturday February 21 at one of the Yerevan streets an employee of the daily, the Executive Editor **Hrach Hakobian**, was detained. As the article noted, Hrach Hakobian was taken to the RA Military Police, where he was kept for 9 hours. As “Haykakan Zhamanak” wrote, representatives of the Military Police tried to determine whether Hrach Hakobian was in contact with some personality wanted by the police. During Hakobian’s stay at the Police, the article went on saying, his personal belongings were seized, including the keys to the editorial office and the mobile phone. Quoting other details of what had happened, “Haykakan Zhamanak” supposed that “the force structures had implemented some planned operation” against the daily.

ON FEBRUARY 25 the **US Department of State** released country report on human rights practices in different countries of the world in 2008, 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 also said about “progovernment and antiopposition media bias” in the run-up to the

presidential election; censorship and suspended freedom of speech and press during the state of emergency on March 1-21, 2008; lack of political diversity, particularly on television; the adopted amendments to the RA Law “On Television and Radio” imposing a two-year moratorium on the issuance of new television and radio broadcasting licenses, and “further reducing prospects for greater media pluralism”.

In the opinion of the report authors, except during the state of emergency period, “the print media generally expressed a wide variety of views without restriction, but remained influenced by economic or political interest groups or individuals”. “The authorities continued to make unscheduled tax inspections of independent and opposition media, which local observers viewed as attempts to stifle the press”, the report noted. “Most stations were owned by progovernment politicians or well-connected businessmen, factors that prompted journalists working for these stations to practice self-censorship. Major broadcast media outlets generally expressed progovernment views and avoided editorial comment or reporting critical of the government. This was especially the case during the presidential election campaign and the protests and state of emergency that followed the election”, the report said. In particular, the US Department of State noted that during the presidential election campaign “the broadcast media displayed bias in favor of the official candidate, and eventual winner, then-prime minister Serzh Sargsian”.

Neither the Central Election Commission (CEC) nor the National Commission on Television and Radio (NCTR) “fulfilled their statutory obligations to ensure equality and objectivity of media coverage towards candidates”, the report authors stressed and reminded about the RA Constitutional Court ruling of March 8, 2008, which states that “the CEC neglected to exert effective control over preelection promotion” and that the NCTR “displayed a formalistic approach to complying with the law. As a result, media coverage displayed not only partiality but also, in some cases, violations of legal and ethical norms”. “Nevertheless, the court found that no sanctions or remedies were warranted because the candidates were able to present their platforms to voters by other means of preelection promotion”, the US State Department noted.

By describing the situation during the state of emergency on March 1-21, 2008, the report noted that censorship was imposed and freedom of speech and media were severely restricted: “all opposition media, all Web sites critical of the government, and several days of broadcasts of Radio Liberty “ were closed. However, the decree on state of emergency did not “prevent other print and broadcast media from airing strident criticism and unfounded charges against the political opposition and its leaders”, the report stressed and cited the statement of RA Human Rights Defender Armen Harutiunian which notes that “a most vivid example of such unacceptable coverage was demonstrated by the First Channel of the Public Television of Armenia”. “While the state of emergency decree applied only to Yerevan, there were numerous reports of the severe media restrictions being imposed in many other parts of the country”, the report said.

The US State Department also listed the incidents with the media representatives that occurred in 2008: the arson attempt of Journalists Club of Gyumri on January 19 and the arson of “Asparez” president's car on March 21; the detention of "Asparez" Board Chairman Levon Barseghian at a rally on March 2 in Gyumri; cases of impeding professional activities of journalists on the day of presidential election, on February 19, at post electoral period and after state of emergency. The report cites the assaults on journalists by persons whose identity remains unknown: on August 11, on correspondent of “Haykakan Zhmanak” daily, Lusine Barseghian; on August 18, on acting head of Yerevan office of the Armenian Service of Radio Free Europe/Radio Liberty Hrach

Melkumian; on November 17, on Chairman of "Investigative Journalists" NGO Edik Baghdasarian.

The report reminded about the pressure exerted on "Gala" TV Company of Gyumri, "simultaneously from tax auditors, broadcast regulators, and municipal authorities". In particular, the report cited the court ruling of March 19, 2008 on the suit of Gyumri Tax Inspection versus the "Gala" founder on tax fines levy.

The report of the US State Department paid attention to the European Court of Human Rights judgment of June 17, 2008, recognizing the refusals to grant a broadcast license to "A1+" TV company founder as a violation of Article 10 of the European Convention of Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas. The report reminded that "A1+" still remains without a broadcast license. The amendments to the RA Law "On Television and Radio" adopted by the parliament on September 10, 2008 imposed a moratorium until July 2010 on the broadcast licensing competitions. Independent media, media analysts, and NGOs viewed the amendments as an effort to block issuance of a license to "A1+", the report noted. The report cited the letter of OSCE Representative on Freedom of the Media Miklos Haraszti, urging the Armenia authorities to revoke the broadcast licensing moratorium which means that Armenia will not be able to comply with the decision of the European Court on the case of "A1+".

The report also emphasized the continuing detention of Arman Babajanian, the Chief Editor of "Zhamanak-Yerevan" newspaper, convicted in September 2006 for document fraud to evade military service.

MARCH 2009

ON MARCH 10 the RA Human Rights Defender *Armen Harutiunian* presented his Annual Report on the Activities of the Defender and the Human Rights and Fundamental Freedoms Violations in Armenia in 2008, describing, among other issues, the situation of free expression and media in Armenia. Touching upon the information sphere, the ombudsman noted the one-sided news coverage by the Public Television of Armenia, as one of the unsolved problems to this very day. For example he brought his extraordinary public report "On Presidential Elections of February 19, 2008 and the Post-Election Situation", released on April 25, 2008, which "was not even mentioned" on the air of the public broadcaster. However, a month later, when objections to the report were raised by the RA General Prosecutor's Office and the RA Ministry of Justice, they were covered "several times" by the Public Television, "with comments of different officials of the abovementioned bodies".

One of the sub-sections of the annual report referred to the right of freedom of information. In the opinion of Armen Harutiunian, there are serious problems with realizing that right. "In fact, there is a lack of pluralism on TV, as for the print media, it is often transformed to insult, giving raise to an improper and unacceptable culture for our society", the ombudsman stressed, in particular. Like in the report of 2007, Armen Harutiunian once again paid attention to the absence of appropriate sublegal acts, ensuring the procedure of the application of the RA Law "On Freedom of Information". Thus, Point 1 of Article 10 of the Law sets forth that providing information or duplicates (copies) of documents by state institutions and organizations, local self-administration bodies is implemented according to the procedure defined by the RA Government. Nevertheless, to present day this procedure has not been defined. Besides, according to point 4 of article 11 of the Law, the

rejection to provide information can be appealed to authorized state body or to the court. However, so far there is not a proper body, the report noted.

The amendments to the RA Law “On Television and Radio”, adopted on September 10, 2008 and suspending the broadcast licensing competitions until July 2010, were considered by the ombudsman as “regressive and explicitly contradictory” to the European Court of Human Rights ruling of June 17, 2008 on the case of “A1+” TV company.

Talking about the situation after the 2008 presidential elections, the ombudsman thought that the activities of a number of media have contributed to the escalation of the tension in the society: “A most vivid example of such unacceptable coverage was demonstrated by the First Channel of the Public Television of Armenia, which not only neglected the President’s Decree on State of Emergency, but also made an infringement of the requirement of Article 28 of the RA Law “On Television and Radio”, prohibiting the prevalence of a political stance in the programs broadcast on public television.” 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, Armen Harutiunian’s report stressed, failed to perform one of its main functions and did not prevent the violations of the Decree provisions not only by the PTA First Channel, but also most of the private broadcasters. At the same time, the ombudsman said, in the second half of 2008 “some positive changes and elements of pluralistic news coverage were observed in the activities of the PTA First Channel”.

The annual report of the Human Rights Defender touches upon the situation on the “GALA” TV company of Gyumri. In particular, in the opinion of the ombudsman, “it raises doubts the circumstance”, that the tax violations made by the founder of the TV company and other problems were revealed “only after “GALA” manifested a critical stance towards the authorities”.

The ombudsman noted that in 2008, like in the previous years, cases of impeding professional activities of journalists have been fixed. Nevertheless, a great number of such incidents remained unpunished. The Human Rights Defender statements, listed in the report appendix, concerned the attacks on journalists, in particular: on correspondent of “Haykakan Zhamanak” daily, Lusine Barseghian, on August 11; on acting head of the Armenian Service of Radio Free Europe/Radio Liberty Hrach Melkumian, on August 18; on Chairman of “Investigative Journalists” NGO Edik Baghdasarian on November 17, 2008.

ON MARCH 13 at Yerevan Brusov State Linguistic University an incident occurred with the free-lance journalist Gagik Shamshian. In the morning of March 13 the students of the Linguistic University were holding a protest action nearby the office of “Miasin” youth NGO. The action was covered by the media. After the action the students went back to the University, and the journalists tried to enter the building with them. University guards stopped the journalists in the entrance hall. As a result a conflict occurred between Gagik Shamshian and one of the guards which turned into a brawl. The journalists and the University employees, present at the place of the incident, pulled apart the fighters. The Rector of the Linguistic University, Suren Zolyan, who came down to the entrance hall, asked the journalists to leave the building and answered their questions about the students’ action in front of the University. After that interview Gagik Shamshian, who ailed, went to the nearby office of Armenian Service of Radio Free Europe/Radio Liberty. At the office Shamshian's health deteriorated, he started bleeding, and the journalist was taken to “Nairi” Medical Center by the ambulance. The journalist was hospitalized with a diagnosis of injury of urogenital tract and internal hemorrhage. Gagik

Shamshian was brought to the reanimatology department, after which he was put under in-patient treatment. On March 19 Gagik Shamshian left the hospital.

On the day of the incident, on March 13, the Committee to Protect Freedom of Expression, Yerevan Press Club, Media Diversity Institute-Armenia, Internews Media Support NGO and Transparency International Anticorruption Center released a statement, which noted, in particular: “Despite the circumstances in which occurred the conflict between the journalist and the representatives of the University internal security, the brutality manifested by them cannot be excused.” RA Human Rights Defender Armen Harutiunian as well as a number of political and public organizations also condemned the incident.

On March 14, at the administration session of the Yerevan Brusov State Linguistic University a statement was issued, in which the conduct of Gagik Shamshian was considered as “cynical and improper to a journalist”. According to the statement, Gagik Shamshian “penetrated to the University, disturbing the educational process”, and “the incident occurred when he was performing illegal actions”, as a result the journalist got physical injuries. “We are sorry about the incident, but we also consider necessary to note that it was not a consequence of impeding Gagik Shamshian’s professional activities, but his hooligan conduct. Defining the guard’s actions as unacceptable, we state that he should not have yielded to any provocation triggered by G. Shamshian”, stresses the statement of the University administration. The administration informed that they had the video recording of the incident, which could be provided to interested parties if necessary. Besides, the Linguistic University, the statement said, has addressed a written claim to the law-enforcement bodies in order to bring the offenders to responsibility.

On March 16 the RA Police informed that Kentron Police Department of Yerevan instituted criminal proceedings on Articles 164 (“Impeding the Legitimate Professional Activities of Journalist”) and 118 (“Beating”) of the RA Criminal Code. In particular, it was noted that the head of the Yerevan Brusov State Linguistic University security and two guards were detained and subsequently were released under an obligation not to leave the place of permanent residence.

On July 26 Gagik Shamshian received a notification from the investigator of Kentron Police Department telling that it was resolved not to carry out prosecution versus the security guards in the absence of corpus delicti. As to the head of the University’s security, the criminal proceedings against him were abolished on the ground of the amnesty, announced on June 19, 2009.

ON MARCH 20 the Commission on Early Release for the fourth time refused the petition on the early release of “**Zhamanak**” daily Chief Editor, **Arman Babajanian**, sentenced to 3.5 years of imprisonment for document fraud to avoid compulsory military service (see details in “*On Freedom of Speech in Armenia*” Yerevan Press Club reports for 2006-2008 on www.ypc.am in “*Studies*” section).

On March 23 the heads of a number of media released a statement, which questions the lawfulness of the decision of the Commission on Early Release. “According to some of the members of the Commission, who were present at the session”, the statement noted, following the ballot results the petition was secured, and, subsequently, Arman Babajanian had to be released. “Nevertheless, after the end of the session, for some unknown reasons, the minutes of the session were forged and changed, as a result, Arman Babajanian’s name did not appear in the list of the early released”, the statement stressed. Defining the incident as “manifestation of lawlessness” and “political order, coming from a

single center”, the media heads called “the competent bodies to eliminate the violation of law without delay and bring the offenders to account”.

On March 25 the heads of five human rights organizations made a statement in which they criticized the activities of the Commission on Early Release. In particular, the human rights defenders were concerned that “exact standards are not defined in the legislation regulating the decision making process of the commission”, “the decisions of the commissions cannot be appealed” and “most of the commission members, including all the commission chairmen represent security structures”.

On March 27 a statement of the Commission on Early Release was published. Rejecting all claims raised towards them, the Commission explained that on the session of March 20, 18 from 74 petitions of the convicts on early release were secured. The ones of the others, including Arman Babajanian’s, were refused. At the same time, the Commission’s statement said, only two members of the Commission voted for the early release of “Zhamanak” Chief Editor, and five - against it. “The results of the vote were affirmed by the signatures of the Commission members. Further changes in the minutes were excluded, as all the Commission members’ signatures are needed for that”, the statement noted, in particular. The Commission on Early Release also stressed that its decisions can be appealed to the court or to the prosecutor’s office, in case of any doubt in their lawfulness.

On June 24 the heads of a number of media made a new statement, mentioning that on June 26 it would be three years since the arrest of Arman Babajanian. During his detention the Chief Editor of “Zhamanak” has submitted four petitions on early release and none of them has been secured, notwithstanding the calls of professional and international organizations.

On July 22 RA Human Rights Defender Armen Harutiunian referred with a letter to RA Minister of Justice Gevorg Danielian requesting to arrange proper health examination of Arman Babajanian, who was at the “Hospital for Convicts” for more than two weeks. The reason for addressing the Minister of Justice became the visit of the ombudsman’s representatives to the Hospital on July 21. Arman Babajanian expressed a concern that by the moment his term of detention expires (September 16, 2009), he can irreversibly miss the chance to improve the health condition.

On August 4, according to the decision of the Committee on Early Release, Arman Babajanian was released on parole. He had undergone a neurosurgical surgery in one of the hospitals abroad. After a proper treatment he resumed his professional duties as Chief Editor of “Zhamanak” daily.

ON MARCH 23, the RA Administrative Court released its ruling **on the suit of Freedom of Information Center versus the administration of Nor-Nork community of Yerevan**. The NGO suit demanded to recognize the actions of the community administration of answering to the inquiry unlawful, to commit it to providing with necessary information, to impose a fine on the Nor-Nork community Head David Petrosian in the amount of 50,000 AMD (around \$ 130), as well as to compensate the amount of 4,000 AMD, paid by the NGO as a state duty for addressing the court. The Administrative Court secured the suit partially, committing the Nor-Nork community of Yerevan to compensating FOI Center the state duty.

On August 1, 2008 Freedom of Information Center made an inquiry to the administration of Nor-Nork community, asking for the number and the addresses of apartments, owned by

the community, as well as for the court statistics regarding the eviction of residents from unprivatized apartments. The community did not answer to the inquiry and the NGO claimed the court. The hearings on the case started on January 26, 2009. In February the community of Nor-Nork provided with the requested information, and FOI Center recalled its demand to recognize the community actions of answering to the inquiry unlawful. On the session of March 6, the court considered the other two demands - on fine imposing on Nor-Nork Head and on expense compensation.

In the end of July and in the beginning of August, 2008 similar inquiries were made to the 12 communities of Yerevan by the Freedom of Information Center. The three of the communities - Arabkir, Davitashen and the aforesaid Nor-Nork either provided incomplete information, or did not answer to it. And Freedom of Information Center brought an action against them. On December 30, 2008 the Administrative Court secured all the demands of the NGO suit versus Arabkir community. As for the action against Davitashen community, it was withdrawn, because the requested information was provided before the court hearings.

ON MARCH 24, court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started the hearings on the suit of free-lance journalist **Gagik Shamshian**, accused on Part 3 of Article 343 of RA Criminal Code (“Disrespect to Court”). On August 5, 2008 during a session of the court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan Gagik Shamshian was dismissed from the courtroom upon the order of Judge Gagik Avetisian. At first the journalist was locked in the basement of the court and was later taken to the Kentron Police Department of Yerevan, where he stayed for over two hours. The criminal proceedings were instituted in September, and the charge was brought against journalist on December 24, 2008 (see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section).

On April 17, court returned Gagik Shamshian guilty and imposed a fine in the amount of 350,000 AMD (about \$ 950). Gagik Shamshian appealed this decision at RA Criminal Court of Appeal, which confirmed the judgment of court of general jurisdiction on June 15. However after a month, on July 15, Criminal Court of Appeal rescinded its ruling and applied an amnesty on the journalist, announced on June 19, 2009. Gagik Shamshian considered that he had been pardoned illegally and addressed to the RA Prosecutor's Office and to the RA Court of Cassation. On August 16 Prosecutor's Office confirmed that the journalist should not have been pardoned on the abovementioned case, as an amnesty had already been applied on him by another case. The Court of Cassation came to the same conclusion, and on September 16 cancelled the decision of the Criminal Court of Appeal on the amnesty.

With regard to the delay in payment of fine the Criminal Executive Department of RA Ministry of Justice filed a suit demanding to replace the fine penalty applied towards Gagik Shamshian by public works. The hearings started on December 18 at court of general jurisdiction of Arabkir and Kanaker-Zeytun communities of Yerevan. The court revoked the suit, on the ground that Gagik Shamshian had already paid off the fine before the hearings started.

ON MARCH 31, court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started the hearings on the suit of **Gohar Vezirian**, correspondent of “**Chorrord Ishkhanutiun**” newspaper, accused on Part 3 of Article 343 of RA Criminal Code (“Disrespect to Court”). On August 6, 2008 during a session of the court of general

jurisdiction of Kentron and Nork-Marash communities of Yerevan Gohar Vezirian was ousted from the courtroom upon the order of Judge Gagik Avetisian. For over an hour and a half the journalist was held in the room, intended for defendants, and then she was sent to the Kentron Police Department of Yerevan. After staying at the Police for more than two hours, Gohar Vezirian was released. The criminal proceedings were instituted in September and the charge was brought against the “Chorrord Ishkhanutiu” correspondent on December 24, 2008 (see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section).

On May 14 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan found Gohar Vezirian guilty and fined her to a fine in the amount of 350,000 AMD (about \$ 950). This decision was appealed at the higher court jurisdiction.

On July 3 the RA Criminal Court of Appeal withdrew the judgment of court of general jurisdiction and applied to Gohar Vezirian the amnesty, announced on June 19, 2009.

APRIL 2009

ON APRIL 8, at 19.30, during protest action of opposition supporters on Yerevan's Northern Avenue an incident happened with "A1+" TV journalist **David Jalalian**. "A1+" informed YPC that police officers attacked the journalist, when he was trying to photograph the actions taken by police against the protesters. Upon his return to “A1+” editorial office, the condition of David Jalalian grew worse. He was taken to hospital, where he received ambulatory treatment.

ON APRIL 23, court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started the hearings on the suit of Levon Kocharian, younger son of RA Second President Robert Kocharian, against “**Haykakan Zhamanak**” daily. The suit was on the protection of honor, dignity and business reputation of the plaintiff. The reason of the lawsuit was the editorial “The adventures of Robert’s Son in Dubai”, published in “Haykakan Zhamanak” on February 6, 2009. The piece informed about Levon Kocharian’s detention by police of Dubai, UAE, in the end of 2008. The plaintiff demanded to oblige the daily to publish a refutation and to compensate for moral losses in the amount of 16 million and 120 thousand AMD (about \$ 43.500). At the session of April 23 the judge noted that “Haykakan Zhamanak” daily cannot appear as defendant of the present case, as it is not a legal entity. The plaintiff submitted a petition to change the defendant, which was secured. Thus, the founder of “Haykakan Zhamanak”, “Dareskizb” LLC, was declared defendant.

The decision on this case was released on June 5. The court partially secured the demands of the suit, by obliging the newspaper to publish a refutation, to pay off a sum of 3 million and 620 thousand AMD, and to compensate the sue charges of 72 thousand AMD.

The founder of “Haykakan Zhamanak” appealed the decision of court of general jurisdiction at RA Civil Court of Appeal. The hearings on the appeal of “Dareskizb” LLC started on September 11, and on October 2 Civil Court of Appeal resolved to reduce the amount of the fine to 620 thousand AMD. The fine was paid off on February 10, 2010. As “Haykakan Zhamanak” informed on February 11, 2010, the fine was repaid in order to release the property of “Dareskizb” LLC, put under arrest by RA Service of Compulsory Execution of Court Acts.

ON APRIL 30, at about 5.00 in Yerevan **an assault was made on Argishti Kivirian,**

Director of “Bagin” legal company, Coordinator of ARMENIA Today news agency.

Strangers with bats attacked Argishti Kivirian on his way home from the office which is located in the next entrance. The neighbors, awoken from the noise, frightened away the assaulters, and they escaped. Argishti Kivirian in grave health condition and with multiple injuries, also on his head, was taken to “Erebuni” medical center, where he spent a week under in-patient treatment.

The same day, on April 30, Committee to Protect Freedom of Expression, Yerevan Press Club, Internews Media Support NGO, Media Diversity Institute-Armenia, “Femida” NGO, “Asparez” Journalist’s Club, Vanadzor Press Club, Transparency International Anticorruption Center, Helsinki Committee of Armenia, Civil Society Institute and Vanadzor Office of Helsinki Citizens Assembly released a statement. “The solution of problems through blows and violence becomes a serious peril for the society”, the statement said, in particular. In the opinion of the eleven NGOs, “the state structures do not take any effective steps in order to stand up against this peril”: “(...) Those who have assaulted against journalists have not appeared before the court to this very day.” The statement authors called the law enforcement bodies to clean the crime against Argishti Kivirian as soon as possible and bring the offenders to account. The NGOs statement also noted that the relatives of Argishti Kivirian link the incident to his journalistic activities.

On April 30 OSCE Representative of Freedom of Media Miklos Haraszti noted in a letter to RA Foreign Minister Eduard Nalbandian and RA General Prosecutor Aghvan Hovsepien that “the lack of results into cases of violence against journalists creates an atmosphere of impunity for the perpetrators and can provoke other cases of violence against media workers”. In the light of the incident with Argishti Kivirian the OSCE Representative of Freedom of Media once again called the country authorities “to swiftly and thoroughly investigate all cases of violence against journalists, and also to publicly express their commitment for ensuring the safety of Armenian journalists”.

The incident with Argishti Kivirian was also condemned by the RA Human Rights Defender Armen Harutiunian, a number of political parties, RA National Assembly deputies as well as the Committee to Protect Journalists.

Upon the attack on Argishti Kivirian the police has instituted criminal proceedings on Article 117 of RA Criminal Code, “Intentional non-grave health injuries”, which was strictly criticized by lawyers, human rights organizations. Particularly, in their opinion, numerous blows stroke with bats which caused a week of hospitalization, and other circumstances of the incident could not be just qualified as “non-grave health injuries”. Moreover on the photos made by free-lance photo journalist Gagik Shamshian at the site of attack, the bloody bat and the gun shells were pictured. The photos were placed on the Internet sites on the very day of the incident (later they were published by the press). Nevertheless, the RA Police report did not say anything about the detection of shells.

The case investigation was transmitted to the Investigative Department of RA National Security Service. On May 8 Gagik Shamshian was convened to the NSS Investigative Department to give evidence, where he confirmed the authenticity of the source files of the digital photos and gave them to the investigation.

The case upon the assault of Argishti Kivirian was requalified to Article 34-104 of RA Criminal Code, i.e., murder attempt.

On July 11 court of general jurisdiction of Kentron and Nork-Marash communities of

Yerevan selected arrest as preventive punishment towards two persons, accused for the murder attempt of Coordinator of ARMENIA Today news agency. Nevertheless on March 8 they were released.

At the moment of publication of the present report the investigation on the case continued.

MAY 2009

ON MAY 1 “Freedom House” international human rights organization published its annual report on freedom of press in the world in 2008. 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, political and 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 in 2008 has moved down, too - 68 points (versus 66 in 2007). Thus, the Armenian media remain to be classed as not free since 2002. “Freedom House” explained the deterioration of freedom of expression situation in Armenia, first of all, by two facts: during the state of emergency in March 2008 “government censored all media for several weeks and obstructed the work of both local and foreign journalists”, and authorities declared a moratorium on broadcast licensing competitions until July 2010.

ON MAY 6 over midnight an assault was made on **Nver Mnatsakanian**, the author and the host of “Perspective” program cycle of “**Shant**” TV company. Two strangers, who were waiting for Nver Mnatsakanian to come back from work, attacked him at the entrance of his house. Giving blows to the journalist and knocking him off his feet, the assaulters escaped. At the hospital, where Nver Mnatsakanian was given first aid, the doctors diagnosed non-grave physical injuries. Nver Mnatsakanian considered the incident to be a result of his professional activities.

On May 7 Committee to Protect Freedom of Expression, Yerevan Press Club, Internews Media Support NGO, Media Diversity Institute-Armenia, “Femida” NGO, “TEAM” Research Center, “Asparez” Journalist’s Club, Vanadzor Press Club, Transparency International Anticorruption Center, Helsinki Committee of Armenia, Civil Society Institute and Vanadzor Office of Helsinki Citizens Assembly released a statement. The statement particularly noted that this was already the second incident for the last week (i.e., the aforesaid attack on the Coordinator of ARMENIA Today news agency, Argishti Kivirian, *Ed. Note*), and that “the treat and blows of journalists becomes a social disaster in Armenia”. Condemning the crime against Nver Mnatsakanian, 12 NGOs stressed that their statement should not be considered as just another call to reveal and punish the offenders: “One appeal only cannot put an end to the tide of violence. Radical and effective steps are needed. These steps have to be taken, first of all, by the authorities, the law enforcement bodies, and it is their inaction and failure to uncover the previous cases that allow the perpetrators, assaulting the freedom of speech, to act more boldly and unruly.”

Mashtots Police Department of Yerevan instituted criminal proceedings on Point 3 of Part 2 of Article 113 of RA Criminal Code (“Premeditated injury of medium gravity”).

On August 21 at a press conference in Yerevan the Head of RA Police Alik Sargsian notified that two young men from Etchmiadzin were arrested on the case of attack on Nver

Mnatsakanian. According to the Head of RA Police, the detainees have confounded Nver Mnatsakanian with the father of their girl friend with whom they wanted to have it out. Thus, there are no ties between the incident and “Grand Candy” company. (The version about the implication of the company was moved out by the press.) On the next day, on August 22 the comments of Nver Mnatsakanian were released on web portal Report.am: “I deplore the state of our law enforcement bodies. Maybe not publicly but at each opportunity I told more than once that it was them and that I was chased by a “Niva” car owned by ‘Grand Candy’.” Later on the version about the involvement of the detainees in the crime was not affirmed.

On February 10, 2010 the Head of RA Police Alik Sargsian at a press conference informed that investigation on the case of attack on Nver Mnatsakanian was withheld - as a result of non-identification of the assaulters.

ON MAY 12 a session of the **Media Ethics Observatory** took place at the office of Yerevan Press Club, on which judgments were rendered on two complaints. The first one addressed by the “Heritage” party was dealing with some publications in several media, and the other one - from “168 Zham” newspaper and “Aravot” daily was on the piece published in “Azg” daily.

The complaint of “Heritage” party referred, specifically, to pieces published by “**168 Zham**”, “**Chorrord Ishkhanutiun**”, “**Haykakan Zhamanak**”, “**Zhamanak**”, “**Hraparak**” newspapers. According to the applicant, the pieces contained false information, misinformation, or offensive expressions for the party. MEO addressed letters to “Chorrord Ishkhanutiun”, “Haykakan Zhamanak”, “Zhamanak”, “Hraparak” newspapers, who are not members of the self-regulation initiative, offering its mediation in the conflict. Since the aforesaid newspapers did not respond to the proposal, the appeal of “Heritage” party was considered only partially, regarding two articles of “168 Zham” newspaper, which has signed the Code of Conduct of Media Representatives.

The subject of the complaint became the pieces “The Client Is Always Right” and “Citizen, Are You a Marker?” published by “168 Zham” on March 19, 2009. By examining the first piece the MEO considered the title “The Client Is Always Right”, offensive, in the applicant’s view, to be “just an evaluating opinion, the truth or agreement to reality of which cannot be proved”. As an argument MEO brought one of the provisions of the decision of European Court on Human Rights on the case of “Lingens vs. Austria”.

Regarding the second piece, “Citizen, Are You a Marker?”, MEO noted that the expression, containing false information, in “Heritage” opinion, is an assumption made by the author of the piece, which she had a right to. The expression, assessed by applicant as misinformation, contains a reference to anonymous sources of information (allowed by Point 2.2 of the Code of Conduct). On the basis of these sources the author makes evaluating opinion. The other expressions challenged by “Heritage” party is a conclusion, which is not subject to any proving.

Thus, MEO defined that in the aforesaid pieces of “168 Zham” on March 19, 2009 “there are no violations of Code of Conduct and international norms of professional ethics”.

At the same time, MEO noted that it shares the concern of “Heritage” about the surge of negative information about the party at the period when the question whether “Heritage” will participate to the Yerevan Council of Elderly elections on May 31, 2009 was being settled. “Nevertheless, the absence of accurate information always gives raise to

assumptions, which cannot be considered as a violation of the Code of Conduct”, the MEO judgment said.

The subject of the complaint of Chief Editor of “**168 Zham**” newspaper **Satik Seyranian** and Chief Editor of “**Aravot**” daily **Aram Abrahamian** was the piece “Campaign of Armenian National Movement launched on the “Chief’s” Order” published by “**Azg**” daily on March 11, 2009. In the applicants’ opinion, the piece contained untrue passages about “Aravot” and “168 Zham” newspapers. The article coarsely violates a number of the Code of Conduct provisions, signed by the conflict parties, the appeal of heads of “168 Zham” and “Aravot” noted.

By examining the piece of “Azg” daily MEO concluded that Points 1.1 and 1.3 of the Code of Conduct have been violated. Point 1.1 stipulates: “Prior to publishing, to check the accuracy of information from any source, not to conceal and not to distort facts, and not to publish obviously false information.” According to Point 1.3, it is necessary “to rely on accurate facts when making analysis and comment”. MEO considered “the party affiliation (to Armenian National Movement, *Ed. Note*) attributed to “168 Zham” and “Aravot” newspapers not to be an evaluating opinion, but nothing else than not proved false information”. The author of the piece should have checked the information. Thus, the comments of the author regarding those newspapers are based on untrue information.

At the same time, MEO called “Azg” daily and the other media, members of the self-regulation initiative, “not to allow the political struggle between the party groups to become a struggle between the media, to refrain from pieces, discrediting each other, and to adhere to ‘common standards of professional journalism’, as the preamble of the Code of Conduct says”.

The MEO conclusion was published in “Azg” daily on May 20, 2009.

ON MAY 15 the issue of “**Pakagits**” daily was suspended. As the Chief Editor of the daily Agapi Haykazuni said, “Gind” printing house quit publishing the daily due to debts. According to Agapi Haykazuni, the debt was formed through the arrest put on the property and financial assets of “Pakagits” founder, “Agap-ARD” LLC, as a pre-award relief to secure the suit filed by Martun Ivanian.

The conflict started in 2006. On December 14, 2006 the court of primary jurisdiction of Erebuni and Nubarashen communities of Yerevan committed the founder of “Pakagits” (at that time it was “Agap-Hrat” LLC) to repaying the debt of 9.048 million AMD to Martun Ivanian, formed as a result of contractual liabilities. The debt was not paid, and on February 20, 2007 the publication of “Pakagits” was suspended. The representatives of the RA Service of Compulsory Execution of Court Acts took away the property of “Agap-Hrat” from the editorial office. On February 22, 2007 the daily was resumed, but yet with a new owner - “Agap-ARD” LLC (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club reports for 2006-2007 on www.ypc.am in “Studies” section*).

In March 2009 Martun Ivanian filed a new suit, this time against Agapi Haykazuni. As a pre-award relief the court of general jurisdiction of Arabkir and Kanaker-Zeytun communities of Yerevan arrested the property and financial assets of Agapi Haykazuni and “Agap-ARD” LLC. On May 18 the suit was secured. The court committed Agapi Haykazuni to repaying Martun Ivanian the debt, which, including percents, came to 9.54 million AMD (about \$ 25,500). Besides, the defendant had to compensate the sue charges in the amount of 180,000 AMD.

At the moment of publication of the present report the issue of “Pakagits” newspaper has not been resumed.

ON MAY 19 the representatives of the RA Service of Compulsory Execution of Court Acts put an arrest on the property of “**Hraparak**” daily founder, “Hraparak Oratert” LLC. The penalty was applied as a pre-award relief to secure a suit. The suit was filed on April 2009 by “Gind” printing house to the court of general jurisdiction of Arabkir and Nor Nork communities of Yerevan. The plaintiff demanded “Hraparak Oratert” LLC to recover the debt and the fines for delay in payment in the amount of 1.2 million AMD (about \$ 3,200).

As Chief Editor of “Hraparak” daily Armineh Ohanian told YPC, the debt to “Gind” printing house, over 3 million AMD, had been accumulated during January- September 2008. According to Armineh Ohanian, since October “Hraparak” had started to be issued at “Tigran Mets” publishing house, where the printing costs were lower. At the same time, while “Hraparak” was gradually recovering the liabilities to “Gind”, the publishing house went to the court, the Chief Editor stressed.

In course of court hearings the parties came to amicable agreement. “Hraparak” daily paid off the debt without penalties, and the conflict was settled.

ON MAY 22 at “Urbat” club Yerevan Press Club presented the preliminary findings of monitoring the coverage of elections of Yerevan Council of Elderly on May 31, 2009 by 7 broadcast media of Armenia: the findings for the first stage of the study - April 16 - May 1, 2009 (ahead of the pre-election promotion) and for the first two weeks of the official electoral campaign - May 2-15, 2009. On June 1 the preliminary report was presented: for the first stage (April 16 - May 1, 2009) and for the second stage - the whole period of the preelection promotion (May 2-29, 2009).

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

ON MAY 31, on the day of elections to Yerevan Council of Elderly, at several polling stations **incidents with media representatives** occurred.

Around 10.30 at the precinct 9/01 of Erebuni community of Yerevan the bodyguards of RA National Assembly deputy Levon Sargsian evicted the correspondents of “**Chorrord Ishkhanutiun**” newspaper **Gohar Vezirian**, “**Hayk**” daily **Tatev Mesropian** and “**Zhamanak**” daily **Marineh Kharatian** out of the station, by spouting oaths and using force. Notably, they hit Gohar Vezirian by feet, and took away the recorder of Marineh Kharatian. According to the RA Police report, at 10.45 an alarm about the incident at the polling station was received from “Hayk” daily Chief Editor Gegham Nazarian. Later, the Police informed that at 14.00 the bodyguard of RA NA deputy Levon Sargsian had addressed to the Erebuni Police Department of Yerevan with a notice. The notice stated that “while RA NA deputy L.Sargsian was voting, the correspondent of “Chorrord Ishkhanutiun” newspaper Gohar Vezirian fell upon them with oaths, thus disturbing the public order”. Criminal proceedings on the incident with the journalist at the polling station 9/01 of Erebuni community were instituted. The investigation was conducted by the Erebuni Police Department of Yerevan.

Around 15.00 at the precinct 8/01 of Malatia-Sebastia community of Yerevan part-time

correspondent of “**Haykakan Zhamanak**” daily **Artur Hovakimian** started taking photos of young men of athletic construction, who, according to him, were intending to stuff the voting-box with ballot-papers. By noticing this, the young people took away the photcamera of the journalist and tore off his neck the journalist identity. To the remark of Hovakimian that he is doing his work, one of the assaulters answered: “And my work is to crash your head”. The journalist was obliged to leave the polling station. Later, the camera was returned to Artur Hovakimian, but yet without the memory stick.

Around 16.20 about 20 young men with their hair shaved close entered the precinct 8/05 of Malatia-Sebastia community of Yerevan. As correspondent of “**168 Zham**” newspaper **Armineh Avetian** informed, six of them started to push back her and Sona Ayvazian, the observer of Transparency International Anti-Corruption Center, by twisting their arms. The others surrounded the tables and the ballot-box, and two of them stuffed the ballots, Armineh Avetian said that they threatened her and took away the photcamera. Force was also used against the correspondent of online publication **Tert.am**, **Lilit Tadevosian**. According to the journalist, while she was trying to observe what was going on near the ballot-box, she was pushed away and prevented from taking photos.

A similar incident with correspondents of “**Aravot**” daily **Lusineh Khachatrian** and **Lusineh Shakhbazian** took place at the precinct 8/20 of Malatia-Sebastia community of Yerevan. As “Aravot” daily informed on June 4, 2009, a group of young people with their hair shaved close entered the polling station and stuffed the ballot-box. A certain Gevorg, introducing himself as Deputy Chairman of precinct election commission, tried to throw out the journalists from the polling station, stressed “Aravot”.

Around 17.00 at the precinct 13/09 of Erebuni community of Yerevan a quarrel arose between the Chairman of Precinct Election Commission Zhirayr Ayvazian and the representatives of **Armenian Service of Radio "Free Europe"/Radio "Liberty"**. At first, the Chairman of Precinct Election Commission permitted to take photos at the polling station, but later he prohibited the shoot of the voters list. The remark of Radio "Liberty" correspondent that the same lists are posted up outside, did not take any effect either. A group of young men, gathered near the polling station, threatened the representatives of Radio "Liberty" and “**A1+**” TV company.

Around 17.30 at the precinct 7/25 of Malatia-Sebastia community of Yerevan an assault was made on the correspondent of “**Aravot**” daily **Nelly Grigorian**, who tried to shoot the squabble between a young man with a nickname “Boko from Noragiugh” and the proxy of Armenian National Congress. According to Nelly Grigorian, the young man caught her by the clothes and taking away the photcamera, left the polling station. The young people who were at the polling station at that moment ran after him and returned with the camera, but without the memory stick.

Other attempts to impede the professional activities of journalists were also registered, nevertheless the occurred problems were solved by the journalists themselves.

The press release of the RA General Prosecutor’s Office, published on June 1, informed about the meeting on which the media articles and the received alarms about the infringements on the voting day, May 31, were discussed. “An appropriate prosecutorial control (...) on the procedure of examination of alarms about infringements during the elections, including the articles of media, is assigned”, the Prosecutor’s Office emphasized, in particular. The press release also reported that criminal proceedings were instituted upon media articles on the cases of attacks against journalists, observers and

ballot stuffing at the polling stations of Malatia-Sebastia community. The investigation of the case was entrusted to the RA Special Investigative Service.

According to the information of RA Prosecutor's Office, 26 applications regarding violations during the elections of Yerevan Council of Elderly were received. On their ground criminal proceedings were instituted on 9 of the cases. Only one of the cases regarded an incident with a journalist - at 9/01 precinct of Erebuni community.

At the moment of publication of the present report no official information on the results of the investigation was released.

JUNE 2009

ON JUNE 4 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started the hearings on the case of assault on **Edik Baghdasarian**, the Head of "**Investigative Journalists**" NGO, the Chief Editor of "**Hetq**" online publication. On November 17, 2008 having left the building, where the "Investigative Journalists" office is located, Edik Baghdasarian headed towards his car when he was assaulted by three strangers. The offenders started beating the journalist, struck him with a stone on his head. Edik Baghdasarian was taken to the hospital and diagnosed with brain concussion. Kentron Police Department of Yerevan instituted criminal proceedings on the incident by Article 113 of RA Criminal Code ("Premeditated Injury of Medium Gravity"). On November 24, 2008 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. 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. The charge on Article 258 of RA Criminal Code ("Public disorder") was brought with Karen Harutiunian (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2008 on www.ypc.am in "Studies" section*).

The piece about the beginning of litigation, published on the same day, on June 4, 2009, in "Hetq", emphasized: "The law enforcement bodies, however, did not reveal the other two with whom 20 years old Karen Harutiunian made the attack (...), and the client of this crime. K. Harutiunian not only denied his involvement in the incident but refused to give evidence, either. Nevertheless, the investigation took the charges pressed against him for granted (...)."

During the court hearings Karen Harutiunian did not plead guilty, either. Meanwhile, at the session of June 23 the court sentenced Karen Harutiunian to 5 years of imprisonment.

ON JUNE 24 at the plenary summer session of Parliamentary Assembly of Council of Europe the **Resolution 1677(2009) "The Functioning of Democratic Institutions in Armenia"** was approved. Points 11 and 12 of the document dealt with the media sphere.

By Point 11 of Resolution 1677(2009) PACE welcomed the adoption, on April 28, 2009, of amendments to the RA Law "On Television and Radio", "which were elaborated in close consultation with the Council of Europe and are aimed at ensuring the independence of the media regulatory bodies in Armenia". With regard to these amendments, Subpoint 11.1 noted that "the appointment procedure for the members appointed by the President of Armenia on the National Television and Radio Commission and the Public Television and Radio Council is not regulated by law", and recommended that the President issue an order "to establish an appointment procedure that mirrors the procedure applied for the

appointments by the National Assembly”. Notably, the Assembly considered that “despite the positive changes to the law, these bodies cannot be held fully independent until such time as all members are appointed through a politically neutral procedure”. In Subpoint 11.2 PACE reaffirmed its position expressed in Resolution 1609 (2008): the composition of both broadcast regulatory bodies “should reflect the Armenian society”. The Subpoint 11.3 recommended that “serving politicians be barred from being members” of regulatory bodies.

Point 12 of Resolution 1677(2009) referred to “the holding of an open, fair and transparent tender for broadcasting licenses”. Presently, said the Resolution, discussions between the Armenian authorities and the Council of Europe are held on a basis of a report prepared by an independent CoE spectrum analyst. PACE reaffirmed the earlier expressed position: “The technical implications of the introduction of digital broadcasting in Armenia should not be used to delay unduly the holding of such a tender and thus the execution of the judgment of the European Court of Human Rights in the case concerning the denial of a broadcasting license to the television channel ‘A1+’”.

PACE Resolution 1677(2009) was adopted on the basis of the report “The Functioning of Democratic Institutions in Armenia”, prepared by the Monitoring Committee on the Honouring of Obligations and Commitments by Member-State of Council of Europe (co-rapporteurs - Georges Colombier and John Prescott). The report was endorsed at the session of the Monitoring Committee on June 22, 2009. In the Explanatory Memorandum of the document, in “Media Reform” section the co-rapporteurs, particularly, referred to the amendment to the RA Law “On Television and Radio”, adopted (by an accelerated procedure) on September 10, 2008 by the RA National Assembly. It suspended the holding of broadcast licensing competitions till July 2010. “This amendment was strongly criticized by the opposition in Armenia”, the Monitoring Committee report stressed.

In view of the aforesaid citation it is worth to emphasize that the situation around the moratorium on licensing competitions presented by the co-rapporteurs was not quite sufficient. “This amendment was strongly criticized” hardly by the opposition only, but, first of all, by the journalistic associations of Armenia and the international organizations. Thus, the statement of five professional organizations, including Yerevan Press Club, qualified the amendment as yet another prove of 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”. The OSCE Representative on Freedom of the Media Miklos Haraszti, calling upon the Armenian authorities to review the addition to the broadcast Law, pointed out, in particular: “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.” Yet, according to Global Campaign for Free Expression “Article 19”, the adopted amendments are directed against “A1+” TV company, contrary to the decision of European Court of Human Rights regarding the case of “A1+”, as well as 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.

Besides, in the draft of the Resolution, presented in the same report of the Monitoring Committee, the provision that the composition of the regulatory bodies (National Commission on Television and Radio, and the Council of the Public Television and Radio)

should reflect the Armenian society was supplemented with a following recommendation: the Assembly “therefore calls upon the National Assembly to consider further amendments to that effect”. Yet the text of Resolution 1677 (2009) approved by PACE does not include this recommendation (see the abovementioned Subpoint 11.2). A question rose as to how will the provision of the Resolution be implemented, if the REAL mechanisms to improve the level of independence of the regulatory bodies still remain absent in the broadcast legislation?! Moreover, the amended legislation did not solve any of the serious problems of the broadcast sphere, voiced by the journalistic community of the country, as well as by the international organizations for years. The withdrawal of the provision on the necessity of introducing further amendments to the broadcast legislation from Resolution 1677(2009) endorsed the assumption of Yerevan Press Club: the amendments of April 28, 2009 were the final chord of the 12-year epic on forming the broadcast legislation in Armenia. “The practice of total control exercised by the power structures over the broadcast sphere received the complete legislative backing they wished so much, with the blessing of the Council of Europe experts and the parliamentary opposition” (*cited from the piece “The Unaccomplished Reform or Strasbourg Is Happy with Us”, published in YPC Weekly Newsletter of June 12-18, 2009*).

ON JUNE 26 the annual report of **International Federation of Human Rights (FIDH)** and **World Organization Against Torture (OMCT)** on the situation of human rights and human rights defenders for 2008 in different countries of the world was presented in Yerevan.

In the report section dealing with Armenia it was mentioned that after presidential elections in February 2008 the country “experienced the most violent repression of recent years”. In particular, the state of emergency of March 1, 2008 “resulted in a temporary ban on the independent media”. The pursuit of independent journalists continued even after it was lifted. In 2008 the freedom of media witnessed a considerable regression, the report noted and brought as an argument the amendments to the RA Law “On Television and Radio” passed by the Armenian parliament on September 10, 2008. The legislative amendments suspended the holding of competitions on broadcast licensing until 2010. According to the report authors, “these amendments make it impossible to create new - and difficult to develop the existing - independent radio and television channels”, contradict the judgment of the European Court of Human Rights of June 17, 2008 on the case of “A1+” TV company, as well as the PACE Resolution 1620 (2008) passed on June 25, 2008, calling the authorities of Armenia to “ensure an open, fair and transparent licensing procedure”.

In the report chapter on Armenia “Impunity for Attacks and Threats against Journalists Defending Human Rights” it was stressed that “in 2008 the intensification of media muzzling in Armenia resulted in the development of Internet-based activities of independent journalists, newspapers and information platforms”. The lack of monitoring of investigations on cases of attack and the pressure exerted on journalists “put those who, amongst others, denounced corruption, in a particularly delicate position”, found the report authors. This assertion was illustrated by the assault of November 17, 2008 on Edik Baghdasarian, Head of “Investigative Journalists” NGO, Chief Editor of online publication “Hetq”. Edik Baghdasarian “seeks to defend the independence of the investigative press and condemns corruption in Government circles”, the report noted.

JULY 2009

ON JULY 1 Chief Editor of “**Haykakan Zhamanak**” daily **Nikol Pashinian** voluntarily surrendered to RA General Prosecutor’s Office. During the presidential elections of 2008

Nikol Pashinian was a member of the election headquarters of presidential candidate, RA First President Levon Ter-Petrosian. In the beginning of March 2008 Nikol Pashinian was announced wanted within the criminal proceedings, instituted on the events of March 1, 2008 in Yerevan (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2008 on www.ypc.am in "Studies" section*).

However, while in hiding, Nikol Pashinian published articles on the pages of "Haykakan Zhamanak" and had his own blog. In the opinion of Nikol Pashinian, the decision "to come out of hiding" and to give himself up to the law enforcement bodies, "will give a new burst" to his political struggle.

Nikol Pashinian was charged with Articles 225 ("Mass riots"), 316 ("Violence against a representative of power") and 225 prime ("Organizing and holding of a public event with breach of order stipulated by law") of RA Criminal Code. Nikol Pashinian received a preventive punishment of arrest.

On July 13 around 30 heads of media, journalistic organizations of Armenia and Mountainous Karabagh made a statement to support the Chief Editor of "Haykakan Zhamanak". The amnesty, announced on June 19, 2009 by the ruling of RA National Assembly, had to be applied on Nikol Pashinian, the statement stressed. According to the ruling, the amnesty should have been expanded on persons announced wanted, if they voluntarily surrender to the law enforcement bodies until July 31, 2009. The signatories called the authorities to release the journalist and continue the investigation within the charges brought against him. The authors of statement expressed their readiness to stand surety for the release of Chief Editor of "Haykakan Zhamanak" in terms of law.

On August 5 RA Special Investigative Service notified about the end of the preliminary investigation on the part of the case regarding Nikol Pashinian. On October 20 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started litigation on the case of Nikol Pashinian, charged with Part 1 of Article 225 ("Mass riots") and Part 1 of Article 316 ("Violence against a representative of power") of RA Criminal Code.

On January 19, 2010 the judgment was released. According to the judgment, the charges of Nikol Pashinian for violence against a representative of power (Article 316 of RA Criminal Code) were dismissed, but he was found guilty in mass riots (Article 225) and was sentenced to seven years of imprisonment.

A number of public and international organizations, political unions made statements, assessing the conviction of Nikol Pashinian as political persecution. From January 19-24 an original protest action was held on the air of "GALA" TV company of Gyumri. On these days the programs of the TV company were periodically interrupted by a photo of the Chief Editor of "Haykakan Zhamanak", appearing on the TV screen.

Both parties appealed the decision of the court of general jurisdiction at RA Criminal Court of Appeal. The lawyers of the head of "Haykakan Zhamanak" demanded to acquit Nikol Pashinian of all charges, while the prosecutor claimed to return him guilty not only for mass riots, but also for violence against a representative of power. On March 9, 2010 Criminal Court of Appeal revoked both of the demands and applied an amnesty on Nikol Pashinian, announced on June 19, 2009. The Court of Appeal cut down the unexpired term of imprisonment of Nikol Pashinian by half.

On May 5, 2010 RA Court of Cassation revoked the applications on reconsideration of the

decision of Criminal Court of Appeal, submitted by the defendant and prosecution parties. The parties made the same abovementioned demands. The parties' applications were not submitted to consideration, as, according to the Court of Cassation, they were not duly justified for reconsidering the decision of the Court of Appeal.

IN THE BEGINNING OF JULY Freedom of Information Center addressed to RA Administrative Court with suits on non-provision of information versus administrations of six rural communities and the "Office on Implementing Programs of Construction and Investments in Yerevan" state non-commercial organization.

On July 2 the trial on the suit versus Talvorik rural community (Armavir region) started in the RA Administrative Court in Etchmiadzin. The FOI Center demanded to provide the copy of the budget of 2008 and the report of its implementation, as well as the copies of the decisions of the community's Council of Elderly on land allocation for the second quarter of 2008. At the session of July 9 Talvorik Elder Kirakos Saghatelian granted the requested information. On July 23, the Court ended the consideration of the suit, as the information was provided.

On July 6, at the hearings of RA Administrative Court in Vedi Yelpin rural community (Vayots Dzor region) conferred the requested data to the FOI Center (the copy of the budget of 2008 and the report on its implementation). At the same time, the Administrative Court resolved to impose a fine in the amount of 50,000 (about \$ 140) on Yelpin Elder Artur Poghosian for non-provision of information. The FOI Center considered this decision to be unprecedented in the court practice of Armenia: for the first time the court sentenced an official to a penalty for infringing upon the right of receiving information.

FOI Center resigned the claims on the suits versus the administrations of Lenughi (Armavir region) and Bjni (Kotayk region) rural communities, as the requested information, although with a delay, was provided.

On August 13 RA Administrative Court in Etchmiadzin turned down the suit of FOI Center versus the administration of Parakar rural community (Armavir region). FOI Center demanded to hold the inaction of the village Elder Samvel Vardanian (who did not answer fully to the request on land allotment). FOI Center appealed this decision at RA Court of Cassation. On March 19, 2010 Court of Cassation secured the claim of the plaintiff partially. The Court stated that the Elder of Parakar village could not answer the request fully, as it did not dispose of the required information for some objective reasons. The Court of Cassation called off the decision of the Administrative Court and sent the case for reconsideration by the same jurisdiction. On May 31, 2010, reconsidering the suit of FOI Center versus administration of Parakar rural community, RA Administrative Court secured the demand of the plaintiff and obliged the Elder to fully provide the information.

On August 13 RA Administrative Court in Etchmiadzin declined the suit of FOI Center versus the administration of Zartonk rural community (Armavir region). On September 15, 2009 FOI Center appealed this decision at the RA Court of Cassation. On April 22, 2010 the Court of Cassation nullified the decision of Administrative Court and redirected the case to the same court jurisdiction for reconsideration.

On December 7 RA Administrative Court in Yerevan declined the suit of FOI Center versus the "Office on Implementing Programs of Construction and Investments in Yerevan" on the ground that the requested information could not be provided as it was a commercial secret. In 2010 FOI Center appealed the decision at the RA Court of Cassation. On June

9, 2010 the Court of Cassation nullified the decision of Administrative Court and redirected the case to the same court jurisdiction for reconsideration.

ON JULY 4 representatives of a number of media were barred out from the building of the Writers Union of Armenia, where the 15th Congress of the organization was being held. According to the press, the journalists were deprived of the right to cover this event on the initiative of the Chairman of Writers Union of Armenia Levon Ananian. Thus, the established procedure of accreditation was not the same for all media and did not ensure equal conditions for them. Meanwhile, the organizers had to take into account the fact that the elections of the head of the Writers Union had attracted a great public interest long before the Congress.

A similar situation happened at the 13th Congress of the Writers Union of Armenia. On May 19, 2001, when the Chairman of the Writers Union was to be elected, Abgar Apinian, the Secretary of the Board acting at that time, demanded the media to leave the session room. Having not heard any weighty arguments to substantiate the demand, the journalists refused to go. And when one of the journalists started taking photos of the ballot box, Abgar Apinian snatched the camera out of her hands and smashed it (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2001 on www.ypc.am in "Studies" section*). In 2009 Abgar Apinian was in opposition to the leadership of the Writers Union of Armenia. In other words, despite the change of leadership, the consistency of traditions remained...

ON JULY 10 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan released the judgment on the suit of Ijevan municipality (Tavush region) versus **"Investigative Journalists"** NGO, the founder of "Hetq" online. The case hearings started on September 29, 2008 at Civil Court of Yerevan. The plaintiff demanded to refute the information discrediting the honor, dignity and business reputation of Ijevan Mayor Varuzhan Nersisian - as seen by the city administration to be present in the articles "Whose Pocket Receives Money from Sand Mine?" and "Will the Three Commissions Notice the Illegal Use of Sand?". The articles were published in "Hetq" on May 5, 2008 and June 23, 2008, respectively, and also printed on May 20, 2008 and July 9, 2008, respectively, in the supplement to "Azg" daily, "Transparent Local Self-Government". Besides, the plaintiff demanded that the expenses of 930 thousand AMD (about \$ 3,100) made for the attorney services be compensated (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2008 on www.ypc.am in "Studies" section*). Later, as a result of judicial reform, the suit was transmitted to court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan, and the hearings were resumed on April 17, 2009.

At the session of July 10 the suit of Ijevan municipality was declined: the court considered the demands of the plaintiff to be baseless.

Ijevan municipality appealed this decision at RA Civil Court of Appeal. On November 13, RA Civil Court of Appeal secured the compliant, resolving to call off the decision of court of general jurisdiction of Kentron and Nork-Marash communities and to redirect the case for reconsideration at the first court jurisdiction. On November 13 Civil Court of Appeal secured the complaint, resolving to revoke the judgment of court of general jurisdiction of Kentron and Nork-Marash communities, and to submit it to the review of court of first jurisdiction.

On JULY 29 at court of general jurisdiction of Kentron and Nork-Marash communities of

Yerevan started the hearings on the suit of **Center of Freedom of Information** versus “Orinats Yerkir” party.

In April 2009 FOI Center made inquiries to seven parties (registered at the RA Central Electoral Commission for running in the elections of Yerevan Council of Elderly of May 31, 2009) requesting the copies of their financial reports for 2008 and information about sources of charitable contributions exceeding the hundred-fold of the minimum wage. The Republican Party of Armenia, ARF “Dashnaksutiun”, “Prosperous Armenia” and the Popular Party gave an exhaustive reply, in terms defined by the law. “Orinats Yerkir” granted incomplete information with a delay, while, the Armenian National Congress and the Labor Socialist Party of Armenia did not respond to the inquiry at all.

FOI Center addressed to court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan with suits on non-granting information versus “Orinats Yerkir”, Armenian National Congress and Labor Socialist Party of Armenia.

On October 22 the suit versus “Orinats Yerkir” was revoked, as the party granted the required information during the court hearings.

On December 22 the suit versus Armenian National Congress was turned down, based on the fact that, according to RA Civil Procedure Code, only legal entities or individuals can appear as defendants at court, while the Congress, as a bloc does not match this requirement.

On March 18, 2010, the court secured the suit versus Labor Socialist Party of Armenia, obliged her to provide with the information, inquired by FOI Center, in a term of 5 days.

AUGUST 2009

ON AUGUST 6 in Gyumri the police impeded the activities of picture crew of “**Shant**” TV channel of Gyumri who had arrived to cover the civilian protest action at municipality building. The policemen led by the Head of Police Department of Gyumri Shirak Shahnazarian took away the camera and moved it to a place from where it was impossible to shoot. On the same day “Shant” TV channel of Yerevan reported about the Gyumri incident on the evening edition of its newscast “Horizon”.

ON AUGUST 19 the founder of “**A1+**” TV company, “Meltex” LLC, addressed to RA Constitutional Court contravening the compliance of Point 1 of Article 204’28 of the RA Civil Procedure Code (“The Competences of the Court in Case of Revision”) with the Main Law. The abovementioned Point enables the court to confirm the previous judgment on a case without securing the filed suit on reconsideration in case of new circumstances. As it has been reported, namely this provision made ground for the RA Court of Cassation who declined on February 19, 2009 the application of “Meltex” LLC (submitted on December 19, 2008), regarding the reconsideration of the two rulings of the Court of Cassation of February 27 and April 23, 2004 on suits of “A1+” founder versus National Commission on Television and Radio. A new circumstance in the case became the judgment of the European Court of Human Rights of June 17, 2008, recognizing the refusals to grant “A1+” founder a broadcast license to be a violation of the Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section*).

At the hearings, started on December 15, the Constitutional Court mentioned that in September 2009, in another case, the Clause, contested by “A1+” founder, was already recognized contradicting to the Main Law. At the session of February 23 the Constitutional Court affirmed that Point 1 of Article 204’28 of the RA Civil Procedure Code contradicts the Main Law. According to the delivered judgment, the founder of “A1+” can reapply to the Court of Cassation with the same demand - to reconsider the two court rulings of 2004 on suits of “Meltex” LLC versus NCTR under new circumstances in the case.

ON AUGUST 20 Gohar Vezirian, correspondent of “Chorrord Ishkhanutiun” newspaper, received a communication on the suspension of investigation on the case instituted on the incident of October 23, 2007. On that day, on one of the central streets of Yerevan, the police had used force against a number of rally participants, who were distributing leaflets and informing citizens through a megaphone about the meeting of oppositionists, planned on October 26. The representatives of law enforcement bodies required not to use a megaphone, then resorted to force and tear gas. During the dispersal of the rally Gohar Vezirian got blows, as a result a medical assistance was required. According to the RA Police press release of October 24, 2007, the Investigative Department of Kentron Police of Yerevan had instituted criminal proceedings on Articles 258 (“Public Disorder”) and 316 (“Violence against a Representative of Power”) of the RA Criminal Code. The proceedings were instituted on the fact of violation of public order and resistance, as a result of which “four representatives of the police addressed for medical assistance with injuries” (see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2007 on www.ypc.am in “Studies” section). Later criminal proceedings on Part 1 of Article 316 were also instituted against Gohar Vezirian, which were afterwards affiliated to the case on the events of March 1, 2008 in Yerevan. In the communication about the suspension of investigation, received on August 20, 2009, the RA Special Investigative Department informed that the actions of two representatives of National Security Service of Yerevan Department of RA Police (one of them caused Gohar Vezirian injuries recklessly, and the other used tear gas) were “lawful”. Thus, the communication said, it is resolved not to institute criminal prosecution, and suspend the proceedings in that part - for absence of corpus delicti.

ON AUGUST 21 a new **Order of Journalists’ Accreditation in RA National Assembly** was defined by the Decree of Parliament Speaker Hovik Abrahamian. A number of provisions of the Order could not but raise concern. Likewise, Points 10 and 11 of the Order set forth the conditions of media accreditation, including the print media circulation, level of attendance of online publications and the frequency of their update, existence of regional and foreign TV companies reporting missions in Yerevan, etc. Even though such requirements do not contradict the Law “On Mass Communication”, at the same time they considerably hinder the coverage of the parliament activities and are groundless from the aspect of efficient journalistic work. Point 21 of the Order, stipulating the access of journalists by accreditation identities only during sessions of the National Assembly and the Standing Commissions, briefings, press conferences, parliament hearings, as well as other events announced by the NA press service, does not contradict the letter of law either. Nevertheless, the parliament is a permanent legislative body, functioning at the expense of state budget, hence, such a provision basically converges the possibility to cover the activities of deputies.

Some conditions of anticipatory suspension of the accreditation also raise concern. In particular, the deprivation of accreditation if the journalist “has diffused untrue information about the National Assembly or the activities of the staff, affirmed by a court decision” (Subpoint “c” of Point 18) seems to be an excessive and groundless punishment. Notably

this concerns the deprivation of the right of accrediting the media outlet whose representative has violated the aforesaid Subpoint. Point 23 of the Order on the responsibilities of journalists is also inappropriate. Specifically, this refers to provisions, binding the journalists “to respect the legal interests, the honor and dignity of the deputies and the National Assembly staff members” during the accomplishment of their professional activities (Subpoint “a”), and not to impede the realization of official duties of the deputies, staff members and other persons present at the sessions (Subpoint “b”). The rights and the interests of the abovementioned persons, listed in Point 23, are already protected by the national legislation. Thus, the content of accreditation order has to be limited, in general, by the description of technical procedures and specific work conditions.

ON AUGUST 21 “Haykakan Zhamanak” daily informed that its previous issue of August 20, 2009 was bought up by unknown persons from the newsstands located in Kentron and Erebuni communities of Yerevan. Some of the subscribers did not get the issue. According to the daily, the action was conditioned by a piece about high-ranking employees of RA Prosecutor’s Office, published in “Haykakan Zhamanak” on August 20.

ON AUGUST 27 in Vanadzor the representatives of Lori Regional Department of RA Service of Compulsory Execution of Court Acts impeded the activities of **Larisa Paremuzian**, correspondent of “**Aravot**” daily and “**Hetq**” online publication. The journalist arrived to Vanadzor on the alarm of residents who informed that representatives of the Compulsory Execution Service resort to violent methods while evicting them from their temporal habitations. Noticing that Larisa Paremuzian is taking photos and interviewing the residents, the compulsory executors took away her recorder and photcamera. As soon as Larisa Paremuzian presented her journalistic identity, they returned the recorder and the camera, though with deleted pictures. According to the version of RA Service of Compulsory Execution, during the execution of the court decision on evicting residents from their temporary dwellings, the journalist from Alaverdi impeded their work, insulted the employees and presented the documents only after the row. While, as to the eyewitnesses there were 50-60 compulsory executors at the place and about 100 policemen, and it is hard to believe that one journalist could hinder their work. On August 31 RA Human Rights Defender Armen Harutiunian addressed a letter to Gevorg Danielian, RA Minister of Justice, suggesting to assign an internal investigation on the incident. According to the information of RA Ministry of Justice of September 2, on the ground of the ombudsman’s letter it is resolved to charge the RA General Compulsory Executor Mihran Poghosian with an internal investigation on the incident of Vanadzor.

Meanwhile, the internal investigation did not reveal the culpables.

SEPTEMBER 2009

ON SEPTEMBER 9 Center of Freedom of Information addressed to the RA Constitutional Court contesting the compliance of some provisions of the RA Administrative Procedure Code with the Main Law. Namely, it concerns Articles 151 (“The Order of Examination of Cases on Bringing to Justice”) and 152 (“Requirements to Applications for Bringing to Justice”) of the Code. According to FOI Center, the reason for filing the Constitutional Court became the inconsistent application of Articles by the judges while examining cases on violations of information right.

The ruling of Court of Cassation, released on February 5, 2010, noted that Articles 151 and 152 of Administrative Procedure Code are in compliance with the Main Law. At the same time, the Court noted that the issue rose by FOI Center deals with the imperfection

of the legislation and can be overcome by amending the Administrative Procedure Code.

ON SEPTEMBER 24 the court of general jurisdiction of Avan and Nor Nork communities of Yerevan started hearing the suit of **Radio “HAY”** founder, “Radio ‘HAY’ ” LLC, versus Styopa Safarian, deputy of RA National Assembly, head of “Heritage” faction. The plaintiff demanded to oblige the defendant to publish a refutation and apologize for the expressions discrediting the business reputation of Radio “HAY”. The reason for the suit became a phrase from a piece by Styopa Safarian, titled “Voyage, Voyage to Madrid and Dagestan” (published in “Hraparak” daily on August 20, 2009). In the piece Styopa Safarian argues, in absentia, with one of the leaders of ruling Republican Party of Armenia, recalls some quotations made by RPA leader during one of the two shows, “Armenian Feedback” (aired on Radio “HAY” on July 30 and July 31, 2009). The author of the article described these shows as “a two-series concert ordered by the President’s administration”.

On February 15, 2010 the suit of Radio “HAY” founder was declined. The court considered the demands of the suit to be groundless.

OCTOBER 2009

ON OCTOBER 13 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started hearing the case on the suit to protect the honor and dignity of **Hrach Keshishian**, General Producer of **Public Television of Armenia**, versus the founder of “**Hraparak**” daily, “Hraparak Oratert” LLC. The plaintiff demanded to oblige “Hraparak Oratert” to compensate the moral loss in the amount of 5 million AMD (about \$ 13,000) and to cover the costs of the lawyer in the amount of 2 million AMD. The reason of the suit was the article “Je t’aime, Je t’aime” on the private life of Hrach Keshishian, published in “Hraparak” on July 18, 2009 and its announcement, published on the eve, July 17.

On the session of October 13 the judge divided the burden of evidence between the parties. The plaintiff has to prove that the pieces of “Hraparak” have discredited his honor and to justify the demanded sum. In its turn, the defendant has to prove the validity of the published information.

At the moment of the publication of the present report the hearings on the case continued.

ON OCTOBER 19 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started hearing the case on suit of “Gind” printing house versus “**Chorrord Ishkhanutiun**” newspaper founder, “Ogostos” LLC. The plaintiff demanded to oblige “Ogostos” to pay off the debt for printing costs in the amount of 2 million AMD (about \$ 5,200). According to Shogher Matevosian, Chief Editor of “Chorrord Ishkhanutiun”, the newspaper founder was not indebted to the printing house, all the expenses were covered on the ground of the contract, and since September 2009, after the conflict arose with “Gind”, the newspaper was being issued at “Mer Tparan” printing house.

On the session of October 19 the plaintiff made two petitions: to involve publisher of “Chorrord Ishkhanutiun”, “Trespassers W.” LLC, as a third party of the case, and to ban the newspaper’s issue. Both of the petitions were secured.

On November 10 eight journalistic and human rights organizations, including Yerevan Press Club, released a statement considering the ban on the issue of “Chorrord Ishkhanutiun” as infringement of the right on free dissemination of information. Moreover,

the decision, whatever it is stipulated by, contradicts Article 27 of RA Constitution and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the statement noted. The public organizations demanded “to call off the court decision which runs counter the democratic principles”, end the persecution of “Chorrord Ishkhanutiun” and solve the problem on a purely financial pattern.

Meanwhile, since November 10 the publisher and the editorial office of “Chorrord Ishkhanutiun” (“Fourth Power”) started to issue a new newspaper, “Chorrord Inknishkhanutiun” (“Fourth Self-Power”).

According to the court decision released on November 16, the ban imposed on “Chorrord Ishkhanutiun” newspaper’s issue will be valid till the repayment of liabilities in the amount of 2 million 673 thousand AMD (around \$ 6,900).

The founder of “Chorrord Ishkhanutiun” appealed this decision at RA Civil Court of Appeal. On March 25, 2010 Civil Court of Appeal called off the decision of the court of general jurisdiction and resolved to submit the case to reconsideration by the same court.

ON OCTOBER 20, according to the statement of press service of RA Police, Erebuni Police Department of Yerevan disclosed the case of burglary at the office of **Panorama.am** news portal, made in the morning of May 16, 2008. As a result of the burglary, Panorama.am lost its office equipment, including the processor storing the editorial archives, as well as the money held at the office. On July 16, 2008 the investigation of the case was suspended, as the offenders were not identified (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Studies” section*).

On October 19 three young men were booked by the Police and plead guilty in the robbery, press release of RA Police stated. Amidst March 2010 the investigation was terminated and the case was submitted to the court.

ON OCTOBER 20 “Reporters without Borders” (RSF) international organization released its eighth annual Worldwide Press Freedom Index. The study was conducted in 175 countries and based on events between September 1, 2008 and September 1, 2009. Armenia got the 111th place in the rating list. Armenia’s ranking, going down by 9 ranks comparing with the previous study, continued to decline. RSF conditioned this by several cases of physical violence against journalists and political tension that continued to affect the media and society.

ON OCTOBER 26 the Report on Media Freedom of the **Sub-Committee on Media of the PACE Committee on Culture, Science and Education** was released. Overall, for the last three years (2007-2009), the report noted a tangible regress of the level of freedom of media in Council of Europe member states. Armenia was repeatedly mentioned in different sections of the report.

Thus, the report particularly emphasized that in varying degrees in a number of countries - Armenia, Azerbaijan, Georgia and Moldova - the authorities displayed intolerance towards the independent and inquiring media as well as political opponents. Four CoE members - Armenia, Moldova, Azerbaijan and Russia - were classified as not free by the international human rights organization “Freedom House”.

In the section dealing with cases of violence against journalists, PACE listed, in particular,

the incidents occurred with Gagik Shamshian, free-lance photo journalist, and Lusineh Barseghian, correspondent of "Haykakan Zhamanak" daily. The incidents took place in Armenia during the presidential elections of 2008. The report also mentioned the assaults of 2008 - on Hrach Melkumian, Acting Director of the Yerevan Bureau of the Armenian Service of Radio Free Europe/Radio Liberty, and Edik Baghdasarian, Head of "Investigative Journalists" NGO, as well as the assault on Argishti Kivirian, Coordinator of Armenia Today news agency - in 2009. The report also stressed about the State of Emergency declared after the presidential elections of February 19, 2008, and the temporary censorship imposed in that period.

As for the broadcasting sphere, PACE stated that Armenia and Azerbaijan "maintain tight state controls over the management and work of their national television systems". Armenia, the report noted, "is being strongly pressed to permit the popular independent TV channel "A1+", whose broadcasting license was taken away in 2002, to be awarded a new one in line with a ruling of the European Court of Human Rights".

NOVEMBER 2009

SINCE NOVEMBER 2009 one of the three mobile operators of Armenia, "VivaCell-MTS" started providing mobile TV service. The consumers were offered the programs of 15 Armenian TV channels. Despite the preliminary negotiations held between "VivaCell-MTS" and "A1+" TV company, the latter did not appear in the "package", as it does not have a broadcast license (the air of "A1+" was banned in April 2002 as a result of refusal of a broadcast license by the National Commission on Television and Radio). This issue is not subject to legal regulation, as the law prescribes licensing only of the broadcaster itself.

Meanwhile, Article 25 of the RA Law "On Television and Radio" stipulates the terms for satellite broadcasting. Particularly, it is set forth that the Public Television and Radio Company of Armenia has the priority to use the satellite communication leased by the Republic of Armenia. The PTRC can allocate unused air to private TV companies under a relevant contract. According to the basic concepts of the Law, an entity is a TV company only if it holds a broadcast license. This approach for some reason is applied by analogy on cable, mobile and other types of communication. Thus, a company that does not have a license is deprived of the right to diffuse its product - information - even if it does not use the public resource, i.e., broadcast frequency. While, the holder of the license (mobile operator, cable TV provider, etc.) is limited in the choice of content dissemination by the production of licensed TV and radio companies. In other words, the principle of indirect licensing for content production is enacted, which contradicts Article 10 of European Convention of Human Rights and Fundamental Freedoms.

The issue is of particular actuality in the framework of switching to digital broadcasting and unification of channels, providing communication services. These processes presume the separation of technical broadcast operators from content producers. Accordingly, this demands a fundamental revision of the approaches to licensing activities in the broadcast legislation. Nevertheless, the Concept Paper on Digitalization of Television Broadcasting, elaborated by the RA Government, does not give any explanation on this issue, which raises concerns whether the technological progress will result in a more intense control over the content of disseminated information.

DECEMBER 2009

ON DECEMBER 2 court of general jurisdiction of Kentron and Nork-Marash communities

of Yerevan started hearing the case on the suit of **Freedom of Information Center** versus Clinic No.2 LTD. On June 10, 2009 FOI Center addressed to the Clinic, requesting to provide information about the procedure of drug allocation to children under 7 years, as well as a number of other issues concerning free drugs for children. Having no reply, FOI Center filed a suit obliging the Clinic to provide the requested information, and bring its Head Tigran Khachatrian to administrative responsibility by a fine of 50,000 AMD (about \$ 130).

At the session of December 2 the representative of Clinic No.2 gave reply to the request. At the session of April 27 the court declined the second demand of the plaintiff on imposing an administrative fine on the Head of Clinic No.2.

ON DECEMBER 3 court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan started hearing the case on the suit of “Ararat” Center for Strategic Research versus the **Caucasus Institute Foundation**. The suit was on the article of an expert from Turkey, published in the collection “Caucasian Neighborhood: Turkey and South Caucasus”, prepared and issued by the Caucasus Institute in 2008 through the materials of one of the conferences organized by it. According to the plaintiff, some phrases of the article, as well as the usage of the word “genocide” in quotes, denied in essence the Armenian Genocide of 1915 in Ottoman Turkey. The plaintiff demanded to oblige the defender to publish a refutation in a number of Armenian media (providing the list of media), stop the dissemination of the book, and pay off a compensation for moral loses of 1 AMD. “Ararat” Center also claimed to prohibit the further usage of the word “genocide” in quotes.

The Caucasus Institute made a petition to remove the case on the ground of absence of the trial subject. At the session of December 4 the court secured the petition and the case was removed.

ON DECEMBER 9 RA National Assembly elected the four members of the **National Commission on Television and Radio**. According to the amendments introduced to the broadcast legislation on February 26, 2007, the half of the eight members of the regulatory body is appointed by the RA President for six years, and the other half - is elected by the parliament for the same term (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2007 on www.ypc.am in “Studies” section*). On April 28, 2009 legislatives amendments, regulating the procedure of election of NCTR members, were made (*see above - FEBRUARY 2-5, 2009*).

To hold the competition for filling the vacancies at the NCTR, the testing and interviews with candidates a commission of six members was formed. The members were nominated by the parliamentary factions: Suren Gevorgian (Chairman) and Karen Aghamian (both by Republican Party of Armenia), Aram Hovhannissian (by “Prosperous Armenia”), Manvel Mkrtchian (by ARF “Dashnaktsutiun”), Lyudmila Melikian (by “Orinats Yerkir”) and Anna Israelian (by “Heritage”).

After the deadline for submitting applications for the competition Anna Israelian, the observer of “Aravot” daily, refused further participation in the work of the commission. Anna Israelian explained the reasons of her refusal in an article “Nobody Who Could Change NCTR Is Nominated”, published in “Aravot” daily on November 13, 2009. “(...) After learning the names of competition participants, it became clear, there is no candidate among them, who would persistently raise the issues of the quality of TV air and violations made, within all these years, would manifest his/her knowledge of the legislation of the

sphere, and, especially, who would know what is NCTR supposed to but doesn't do. The names of such experts are known. I asked some of them why they were not nominated as candidates. It turned out that none of them was fascinated with the perspective to be in such a situation as NCTR members Karineh Khodikian and Ara Tadevosian were in 2002. Their votes could not affect the issue of "A1+" and the previously determined winners (this concerns the broadcast licensing competitions during which the applications of "A1+" TV company were always considered to be lower than the other applicants by the majority of NCTR voting members, *Ed. Note*). Moreover, given the fact that in April 2007 Grigor Amalian, the driving force of NCTR, was reappointed by the decree of Robert Kocharian (RA Second President, *Ed. Note*) as Chairman of the Commission until 2013, the experts, who have been criticizing his activities, considered the idea of working with that person to be insulting itself. Likewise, the field was voluntarily left for those who, obviously, will not dispute the decisions of the majority. (...) Many of the nominated candidates are quite respectable personalities, but for them the situation dominating in the Armenian TV air is acceptable enough (...)", the article noted in particular.

Alen Simonian continued the work at the competition commission from "Heritage" faction, instead of Anna Israelian.

Applications for participating in the competition were submitted by 8 candidates. After the testing and interview one of the candidates was eliminated, hence 7 candidates pretended to the four vacant positions of the NCTR.

On December 9, RA NA deputies voted the four members of NCTR: Armen Mkrtchian (first Armenian citizen to win a case at the European Court of Human Rights), Hayk Kotanian (former Head of the RA National Assembly Office), Koryun Arakelian (former Vice-Chairman of "National Unity" party), and Aram Melkonian (former Assistant to RA Second President Robert Kocharian, subsequently Deputy Head of State Tax Service).