



YEREVAN PRESS CLUB

**2010: LICENSING COMPETITIONS NEITHER SOLVED
KEY ISSUES OF BROADCAST SPHERE,
NOR ENSURED PLURALISM OF TV AIR**

Annual Report of Yerevan Press Club

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JANUARY 2010

ON JANUARY 10, on the day of elections to the vacancy formed in the RA National Assembly, at the electoral district 10 of Yerevan **cases of impeding journalistic activities were registered**. At the precinct 10/19 an incident occurred between the representatives of one of the candidates for deputy and **free lance journalist Gagik Shamshian**, and **Anush Martirosian, correspondent of Armenian Service of Radio Free Europe/Radio Liberty**. According to Gagik Shamshian, some young men coarsely prohibited the journalists from shooting and interviewing. As Gagik Shamshian noted, after a verbal skirmish they were forced out from the polling station. At the same time Gagik Shamshian was given blows and the microphone of Anush Martirosian was broken. Later on that day the same people forced **Hayk Gevorgian, observer of "Haykakan Zhamanak" daily**, and **Gohar Vezirian, correspondent of "Chorrord Inknishkhanutiun"** newspaper, out of the polling station.

On January 13 the RA Procuracy informed that the materials on the violations were transferred to RA Special Investigative Service for instituting criminal proceedings and holding an investigation. The materials were prepared on the basis of media communications on violations at the precinct 10/19 on January 10. On January 14, RA Central Electoral Commission had cancelled the elections at precinct 10/19, due to numerous violations. On January 19 the RA Procuracy informed that proceedings were instituted on Points 3 and 5 of Part 2 of Article 149 of RA Criminal Code ("Obstructing the realization of electoral right, the work of electoral commission or the implementation of the authorities of election participants"). Later on the investigation on the case of violations at precinct 10/19 was dismissed for failure of proof.

ON JANUARY 20 the international "**Human Rights Watch**" organization released its annual **report on human rights practices** in over 90 countries of the world in 2009.

In the section, dealing with Armenia, the situation with media freedom was presented. In particular, despite the decision of the European Court of Human Rights of June 2008, finding Article 10 of the European Convention on Human Rights and Fundamental Freedoms in violation with relation to "A1+", the TV company had not been able to resume broadcasting due to the two year moratorium of broadcast licensing competitions (introduced in September 2008), the report noted. According to the report authors, the amendments of April 2009 to the RA Law "On Television and Radio" did not ensure the pluralism in the broadcast regulatory body. The report also listed the incidents with journalists. Particularly, the assaults of: Argishti Kivirian, Coordinator of ARMENIA Today news agency (April 30, 2009), Nver Mnatsakanian, author and host of "Perspective" program cycle of "Shant" TV company (May 6, 2009), and Edik Baghdasarian, Head of "Investigative Journalists" NGO (November 17, 2008). "No conclusive investigations followed any of these incidents", the report stated. "Human Rights Watch" mentioned the cases of impeding the professional activities of journalists on the day of elections to Council of Elderly of Yerevan on May 31, 2009, as well as the early release - for health reasons - of Arman Babajanian, Chief Editor of "Zhamanak" daily. In 2006 Arman Babajanian was sentenced to 3.5 years of imprisonment for document fraud to evade

military service.

ON JANUARY 27 at the plenary winter session of Parliamentary Assembly of Council of Europe **Recommendation 1897(2010), “Respect for Media Freedom”**, was approved. Thus, Subpoint 11.5 of the Recommendation called all the CoE member states, particularly, Armenia, Azerbaijan, Moldova, Russia, Ukraine and Belarus, “to ensure fair and equal access of all political parties and candidates to the media before elections and pay particular attention to this issue when assessing future elections”. In Subpoint 11.7 PACE urged the RA Government to revise the amendments to the RA Law “On Television and Radio” (September 10, 2008), suspending the broadcast licensing competitions until July 2010. The Recommendation noted that these amendments were “passed as a countermeasure to the judgment of the European Court of Human Rights” on the case of “A1+” TV company of June 17, 2008.

Several provisions of **the Explanatory Memorandum of the “Respect for Media Freedom” report**, presented on the session of PACE Committee on Culture, Science and Education on January 6, 2010 (rapporteur - Andrew McIntosh), also regarded the situation with Armenian media. Thus, the rapporteur emphasized that “harassment of journalists and direct controls on the media intensified around the time of the February 2008 presidential election”, a number of journalists suffered assaults during the protest actions after the elections. As examples of attacks on journalists, the Memorandum cited the incidents with Hrach Melkumian, Acting Director of the Yerevan Bureau of the Armenian Service of Radio Free Europe/Radio Liberty (August 18, 2008), Edik Baghdasarian, Head of “Investigative Journalists” NGO (November 17, 2008), and Argishti Kivirian, Coordinator of ARMENIA Today news agency (April 30, 2009). During the 20 days long state of emergency, declared in Armenia after the presidential elections 2008, a strict censorship was imposed. Several media closed down rather than submit to it. Armenia, Azerbaijan and Belarus all maintain tight state controls over the management and work of their TV companies, the Memorandum said. “Armenia is being strongly pressed to permit the popular independent TV channel “A1+”, whose broadcasting license was taken away in 2002”, to give a possibility for broadcast in line with the ruling of the European Court of Human Rights, the Explanatory Memorandum of the “Respect for Media Freedom” report emphasized.

ON JANUARY 29 in Gyumri RA Administrative Court **started to hear the case on the suit of the founder of “Aravot” daily, “Aravot Oratert” LLC, versus Lida Nanian, Governor of Shirak region**. The plaintiff demanded to hold the inaction of the Governor, who did not provide information on expenditure of budgetary funds. The plaintiff’s representative at court was the Freedom of Information Center.

On August 19, 2009 “Aravot” daily e-mailed all Armenian Governors requesting on how the subsidiary funds of 70 million AMD (about \$ 185,000), allocated from the state budget in 2005-2009 to each region, were expended. Only the Governors of Shirak and Lori regions did not answer to the request, therefore, the founder of “Aravot” filed a suit with the assistance of FOI Center.

At the session of January 29 the defender’s representative contended that the inquiry was not received, as the e-mail address of the regional administration was out of use for over a year. As soon as the respondent presented the proofs, the parties concluded an amicable agreement.

On February 25 in Vanadzor the RA Administrative Court started hearing a similar suit of **“Aravot” founder** but versus Aram Kocharian, Governor of Lori Region. Again, in this

case the plaintiff demanded to hold the inaction of the Governor, who did not provide information on expenditure of budgetary funds.

On May 24 the respondent fully provided “Aravot” with the requested information, and at the session of May 25 the Administrative Court resolved to dismiss the suit. The court also noted that the Lori Administration had the right not to answer the inquiries of the newspaper, as they were sent by e-mail. Thus, this could not be qualified as abusive inaction. The founder of “Aravot” appealed this decision at the RA Court of Cassation, which upheld the ruling of the Administrative Court.

FEBRUARY 2010

ON FEBRUARY 4 National Commission on Television and Radio submitted for consideration of the heads of Armenian TV companies **a draft of criteria** for erotic TV and radio programs, films, containing horror and violence scenes, as well as programs which could have negative influence on the health, mental, physical growth and education of minors. The document was developed by expert commission (established under the NCTR) in compliance with the requirements of Article 24 of RA Law “On Television and Radio”, authorizing the broadcast of such programs only at night (from 24.00 till 6.00).

Some of the suggested criteria raised doubt, first of all for blurred wordings, assuming a broad and subjective interpretation. For instance, it was not clear, what should one mean by the restriction on “imitation of drug-addicts and alcoholics”?

Later on the document was revised and approved by NCTR on February 15. Yet its new, already approved version raised quite a few questions.

If the criteria, defining erotic, violence, horror and cruelty, were overall in accordance with the conventional standards, then some descriptions of what could negatively affect the minors, continued to cast on doubts. Thus, who and how will define “the discredit and humiliation of national figures, cultural heritage” or “the distortion of historical events”? The reference to “general educational programs” as an indisputable credible source is rather dubious - the latter are being seriously criticized, too. And even if the quality of educational programs did not cast doubts, couldn't the TV, radio programs, including discussion programs, come up with approaches, different from textbooks?

These concerns gain more actuality, as the regulatory body has so far failed to follow-up adequately the evident violations of the broadcast legislation in such spheres, like coverage of electoral campaigns, advertisement, broadcast language, etc. So how NCTR (or another authorized body) is going to apply the abovementioned blurred restrictions, which assume a broad and subjective interpretation? (*Herein a comment from YPC Weekly Newsletter, February 5-11, 2010, and February 12-18, 2010, is presented.*)

ON FEBRUARY 4 the session of **Media Ethics Observatory** was held at Yerevan Press Club. At the session MEO considered the appeal of **Eduard Naghdalian**, Chief Editor of “**Delovoy Express**” business weekly. On February 1, 2010 Eduard Naghdalian addressed a request to MEO to render an expert judgment on the complaint of Mr. Vardanian, Director of “D.E.L.V” LLC, submitted to the weekly. According to Mr. Vardanian, the advertising article, titled “Sophia-Yerevan-Beijing” and published in “Delovoy Express” on December 8, 2009, contained a number of untrue expressions, discrediting his company. The head of “D.E.L.V” LLC demanded to remove the abovementioned article from the weekly website and to publish a corrective advertisement.

The MEO expert judgment noted that according to Article 23 of RA Law “On Advertisement”, the advertising medium is not responsible for the advertising content, consequently the demands of the “D.E.L.V” Director to “Delovoy Express” were groundless. At the same time, MEO emphasized that these demands can be addressed not to the weekly, but to the advertiser. Besides, the dispute is subject to adjudication in front of the court, thus the advertiser must appear as defendant in line with Article 19 of RA Civil Code. Moreover, the complainant is entitled to publish an advertisement in “Delovoy Express” (based on the principle of granting equal opportunities to advertisers, implied by the Code of Conduct of Media Representatives). The complainant has the right to require to publish the advertisement in the same volume, in the same place, on the same terms, and to put in the weekly’s website, as the piece - subject of the dispute, the MEO judgment read.

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 MEO is to consider the complaints-appeals regarding the violations of the Code of Conduct of Media Representatives and make judgments on them (*see details on www.ypc.am in “Self-Regulation” Section*).

ON FEBRUARY 16 US-based Committee to Protect Journalists released the annual **report on attacks on the press in 2009** in more than 100 countries of the world.

In the report section dealing with Armenia it was noted that the public remains polarized by the presidential elections 2008, with protest actions and government reprisals continuing well in 2009. The authorities seek to suppress critical debate over these issues; as a result journalists face intolerance, hostility, and violence. The authorities control over most broadcast media, the primary news source in a poverty-afflicted country with poor newspaper distribution and low Internet penetration, the report stated. The Council of Public TV and Radio Company, composed of members, appointed by RA President, continues to set editorial guidelines for First Channel of the Public Television of Armenia, ensuring the pro-government coverage. CPJ research showed that most private TV and radio companies are owned by politicians and businessmen with close ties to the government, leading to significant self-censorship by journalists and limited critical news reporting on the air.

CPJ emphasized that “A1+”, independent TV company, remains without a broadcast license. The TV company was pulled from airwaves in 2002 and has made a dozen unsuccessful attempts to get back on air. According to the ruling of European Court of Human Rights of 2008 the broadcast regulatory body violated the European Convention on Human Rights and Fundamental Freedoms by rejecting the applications of “A1+” without explanation.

“Violent attacks against journalists continued amid a climate of impunity”, the report said and listed a number of incidents with media representatives: free lance journalist Gagik Shamshian at Yerevan State Linguistic University (March 13, 2009); the attack on Argishti Kivirian, Coordinator of Armenia Today news agency (April 30, 2009); the assault of Nver Mnatsakanian, author and host of “Perspectives” program cycle of “Shant” TV company (May 6, 2009).

CPJ also mentioned the cases of impeding journalistic activities and restriction of their rights: the incidents on the day of Elections to Yerevan Council of Elderly (May 31, 2009); prevention of the crew of “Shant” TV company by police from covering protests in Gyumri (August 6, 2009); the approval by RA National Assembly of new media accreditation rules.

The report also stated the early release - for health reasons - of Arman Babajanian (in August 2009), Chief Editor of "Zhamanak" daily, condemned in 2006 for document fraud to evade military service.

ON FEBRUARY 24 in front of the RA Procuracy an incident with the **free lance journalist Gagik Shamshian** occurred. According to Shamshian, he was shooting on the street before the beginning of the session of the RA Procuracy Collegium, when a young man came up to him, abusing and demanding to stop shooting and to get away. Afterwards he started to beat the journalist, then entered the building of the Procuracy. Gagik Shamshian also told YPC that despite the injuries, he waited till the end of the Collegium session and attended the press conference of Aghvan Hovsepian, RA General Prosecutor. As to the journalist, he announced about the crime at the press conference, and Aghvan Hovsepian asked him to address to the RA Procuracy with a notice on the attack. Gagik Shamshian also noted that right after the assault he called the RA Police on the hotline. Shamshian ensured that he had time to take a picture of the assaulter, while the incident should have been recorded by the camera fixed at the entrance of RA Procuracy.

Later, while Gagik Shamshian was receiving medical assistance, it turned out that his eardrum was injured.

On the same day, on February 24, Committee to Protect Freedom of Expression, Yerevan Press Club, Internews Media Support NGO, Media Diversity Institute, "Asparez" Journalist's Club of Gyumri, Vanadzor Press Club, and Goris Press Club released a statement, which emphasized that Gagik Shamshian "was taking photos of the high-ranking officials of law enforcement bodies, who were arriving to the Collegium, i.e., was on professional duties. Meanwhile from the way the assaulter freely entered the Procuracy, he may be directly related to the law enforcement bodies". "The public can expect that another case of violence against a journalist will be followed up. And if the attacker is not revealed and punished this time, we will have all the reasons to believe that the law enforcement bodies are simply refraining from disclosure of such crimes", the statement of seven journalistic associations stated, in particular.

On February 25 "Aravot" daily published the photo of the young man, which, as to Shamshian, had assaulted him. In the report on the incident near the Procuracy "Aravot" also noted that, according to the newspaper's information, "the assaulter is an investigator of the General Investigative Department of the RA Police".

Kentron Procuracy of Yerevan instituted criminal proceeding on Articles 164 ("Impeding the legitimate professional activities of journalist") and 118 ("Beating") of the RA Criminal Code. The investigation was conducted by Kentron Police Department of Yerevan.

On April 13 the investigator of Kentron Police Department informed Gagik Shamshian that the case was dismissed in the absence of corpus delicti. Besides, Gagik Shamshian was told that with regard to the same incident in front of the RA Procuracy criminal proceedings on charges of false denunciation were instituted against him. Later on this case was also dismissed.

ON FEBRUARY 24 at a regular session the RA National Assembly voted down the **draft law on introducing an amendment to the RA Law "On Television and Radio"**. The draft on abolishing the moratorium on broadcast licensing competitions was initiated by deputies from "Heritage" faction Anahit Bakhshian and Armen Martirosian. The amendment to Point 14 of Article 59 of the RA Law "On Television and Radio", adopted on September 10, 2008, suspended the broadcast licensing competitions for two years, till

July 20, 2010. This raised serious concerns of the Armenian journalistic community and international organizations. Particularly, they claimed that the introduction of the moratorium runs counter the ruling of European Court of Human Rights of June 17, 2008 on the suit of "A1+" TV company, depriving the latter to take part in a new competition.

Meanwhile, at the session of February 24 the majority of deputies voted against the abolition of the amendment to Broadcast Law (70 - con, 24 - pro and 3 - abstentions).

MARCH 2010

ON MARCH 11 the US Department of State released the report on human rights practices in 2009 in different countries of the world, 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; however, the government did not respect always these rights in practice", and "there continued to be incidents of violence, intimidation, and self-censorship against and in the press throughout the year". The report also emphasized that media, especially television, lack political diversity and objective reporting. "The print media generally expressed a wide variety of views without restriction but remained influenced by economic or political interest groups or individuals", restated the report authors, noting that greater plurality of opinion exists in online publications, although their readership is limited, especially outside Yerevan. "Most stations were owned by progovernment politicians or well-connected businessmen, factors that continued to prompt journalists working for these stations to practice self-censorship. Major broadcast media generally expressed progovernment views and avoided editorial comment or reporting critical of the government."

Unlike the February 2008 presidential elections, when progovernment media "showed a distinct bias in favor of the official candidate and eventual winner, then Prime Minister Serzh Sargsian", the coverage of the campaign for the elections of Yerevan Council of Elderly in May 2009 was more neutral. "According to the monitoring of media coverage of the election campaign, conducted by the Yerevan Press Club (YPC), 96 percent of all references to the political parties/bloc contesting the election were neutral (...). Nevertheless, the YPC stated in its media monitoring report that certain television channels gave clear preference to one or another candidate and party", the report of US Department of State said.

Among other considerable political events of 2009 the Department of State highlighted the protocols on the establishment of relations between Armenia and Turkey: the Armenian broadcast and print media extensively covered the public debates on the protocols, "permitting the expression of wide-ranging viewpoints that were both in favor and in opposition to the documents".

During 2009 the journalists continued to be targets of attacks, the report stressed, and the failure to prosecute such cases fosters an atmosphere of impunity and serves to provoke further attacks against journalists. The report listed the incidents, trials regarding media representatives.

The US Department of State did not pass over the media legislation, either. Thus, the amendments to the RA Law "On Television and Radio", adopted on April 28, 2009 by RA National Assembly, in the opinion of local experts, did not ensure the independence of

broadcast regulatory body. The report also mentioned, that on December 9, 2009 the National Assembly elected four new members to the National Commission on Television and Radio, and quoted the opinion of Styopa Safarian, NA deputy from “Heritage” faction: “not all candidates clearly meet the requirements laid out by the law” and no prominent media experts or civil society representatives took part in the selection process. The report presented the situation created after the two-year moratorium on holding broadcast licensing competitions, which was imposed in 2008 under the pretext of switching from analog to digital broadcasting in Armenia. The Department of State also cited the opinions of some journalists regarding the procedure of accreditation of journalists, approved by NA Speaker Hovik Abrahamian on August 21, 2009: the new document is excessively restrictive and hinders the reporting on the activities of the parliament.

ON MARCH 17 RA National Assembly adopted in the second hearing and finally **the draft law “On Introducing Amendments and Supplements to the RA Criminal Code”**. The document was considered in first hearing on November 17, 2009. The authors of the draft, NA deputies from “Orinats Yerkir” faction Hovhannes Margarian and Heghineh Bisharian, suggested to stiffen punishment for impeding the journalistic activities by amending Article 164 (“Impeding the Legitimate Professional Activities of a Journalist”) of RA Criminal Code. The initiative was stipulated by a number of facts indicative of the scarce level of protection of journalists.

The amendments to the Article 164, endorsed by the parliament, regarded the aggravation of penalties, envisaged by Part 1 and 2 of the Article. The latter was also supplemented with a new 3rd Part.

Henceforth Article 164 of Criminal Code reads as follows: impeding the legitimate professional activities of a journalist or forcing the journalist to disseminate or not the information are sentenced by a fine of 200-400 minimum wage (Part 1); the same actions, performed by an official with use of his/her position is sentenced by a fine of 400-700 minimum wage, or by imprisonment for not more than 3 years, or by imprisonment for the same term with deprivation of right to hold certain posts or conduct certain activities within not more than 3 years (Part 2); the actions, envisaged by Parts 1 and 2, attended by either use of violence, or a threat of its use, dangerous for the life and health of the journalist or a member of his/her family, are sentenced by imprisonment for 3-7 years (Part 3).

ON MARCH 17 RA National Assembly enacted in second hearing and finally the **draft law “On Introducing an Amendment to the RA Criminal Procedure Code”**. The draft law on protection of information sources was initiated by NA deputy Hovhannes Margarian (“Orinats Yerkir” party) regarded the protection of information sources. The draft law was endorsed in first hearing on October 28, 2009.

The amendment, adopted in second hearing, dealt with the Part 2 of Article 16 of RA Criminal Procedure Code (“The Publicity of Court Litigation”) that lists the cases of holding executive court sessions. The Part was supplemented by Point 4, which stipulates that an executive court session is assigned whenever a court decision obliges a person, accomplishing information activities, or a journalist to disclose the information source, and if it is petitioned by the latter.

ON MARCH 23 “GALA” TV company released a statement, noting that “as a result of direct pressure of some power agencies, since mid-February the advertisers avoid of placing their commercials on the air of ‘GALA’”. According to the TV company, for the last month 26 companies removed their advertisements from “GALA”, and at that time it had only 3 advertisers. Likewise, informed “GALA”, in 2007 the TV company was deprived of

more than 30 advertisers in three days. The TV company stated that it reduces the price tenfold: from now on “one minute of advertisement will cost a nominal price of 960 AMD”.

On April 8 “GALA” made another statement, informing that the State Revenue Committee by the RA Government demanded the founder of the TV company, “CHAP” LLC, to repay income tax for 2008 and the delinquency charge of a total of 822,000 AMD (more than \$ 2,000). The owner of “CHAP” LLC Vahan Khachatryan refused to fulfill the demands of the tax inspection, as in 2008 the TV company worked in wane and did not have a single advertiser within 8 months, the statement emphasized. The tax audit at “CHAP” and the consecutive litigations started as soon as, on October 22, 2007, Vahan Khachatryan announced about the attempts of various power agencies to exert pressure on “GALA” (see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Media Reports” section).

APRIL 2010

ON APRIL 2, eight years have passed since “**A1+**” TV company was deprived of the right to air as a result of a refusal of broadcast license. Since 2002 “A1+” has participated in 12 competitions, held by the National Commission on Television and Radio, and every time the bids of the TV company were scored lower than the ones of its rivals.

On April 2, 2010 International Federation of Human Rights, Committee to Protect Freedom of Expression, Yerevan Press Club, Internews Media Support NGO, Media Diversity Institute-Armenia, Armenian Helsinki Committee, Foundation against Violation of Law, Civil Society Institute released a statement, noting that after April 2, 2002 the broadcasters started to work more cautiously and that a hidden censorship is applied in Armenia, by using economic and tax leverage, as well as political pressure. The signatories mentioned that the European Court of Human Rights in its decision of June 17, 2008 on the suit of the “A1+” founder, “Meltex” LLC, versus Republic of Armenia ruled that Article 10 of European Convention on Human Rights and Fundamental Freedoms had been violated, i.e. the right of “A1+” to freely impart information and ideas. Nevertheless, on September 10, 2008 RA National Assembly suspended the broadcast licensing competitions for two years, by enacting the amendments to the RA Law “On Television and Radio”. This became an obstacle for implementing the ruling of ECHR.

On March 4, 2010 the Committee of Ministers of Council of Europe, by addressing the issue of the enforcement of the ECHR decision on the case of “A1+”, stressed that “detailed information on the developments regarding the remedies pursued by the applicant before the competent national judicial authorities is awaited”, emphasized the statement. Besides, in its Recommendation 1897(2010), “Respect for Media Freedom”, endorsed on January 27, 2010, the Parliamentary Assembly of CoE called upon the Armenian Government to revise the amendments to the Law “On Television and Radio”, passed on September 10, 2008.

ON APRIL 16 at the hall of the National Center of Aesthetics the premiere of the documentary “Choice” was to be held, however the show was cancelled by the instructions of the Center management. The producer and the scriptwriter of the film **Tigran Paskevichian, member of Creative Board, Director of film and program production of “Shoghakat” TV company**, informed YPC, the documentary was shot with the assistance of US National Endowment for Democracy Foundation within the project “The Wives of Repressed”. The story was about the families of political prisoners and the situation in Armenia before and after the presidential elections 2008. According to Tigran Paskevichian, the RA Ministry of Education and Science the ban was determined by the

Model Regulations of State Non-Commercial Organizations which applies to state educational institutions, as well. The document prohibits forming and running political and religion organizations in such institutions. As to the journalist, the documentary, regardless of its content, could not be considered as “forming and running political and religion organizations”, therefore the restriction on its show ran counter Article 27 of RA Constitution, ensuring the freedom of expression, freedom to seek, receive, and impart information. In the statement, released regarding the ban of the film ““Choice”, Tigran Paskevichian called upon the RA Ministry of Culture to provide a hall for the film premiere. In its turn, Levon Igitian, Director of the National Center of Aesthetics, told YPC that the prior agreement on the premiere was made with the head of the Center hall without his consent. According to Levon Igitian, as soon as he learnt about that, he forbade the show of the film “Choice” for the institution, engaged in aesthetic education of teenagers, could carry out any other activities.

ON APRIL 21 heads of 11 TV companies of Armenia signed Charter of Ethical Principles of TV and Radio Broadcasters of the Republic of Armenia, upon the initiative of the Public Council at the RA President. The document was signed by “Hayrenik TV”, “Hay TV”, ATV, “AR”, “DAR-21”, “Yerevan”, “Yerkir Media”, “Kentron”, Public Television of Armenia, “Shant” and “Shoghakat”. It was expected that the Charter would be joined by five more TV channels.

The report about this in YPC Weekly Newsletter (April 16-22, 2007) had a comment saying: “The wish of media to follow ethical norms is always commendable, yet only when it is truly their wish and sincere commitment to following professional standards. Also, when such initiatives are based on an appropriate institutional base. In this very case the collective singing of professional ethics norms by TV companies raises a number of questions.

Firstly, this initiative brings back the question: what is the status and functions of the Public Council? In Armenia there are no naive people who believe that this is an independent body capable of making its own public initiatives, including those in media domain. If this is a consultative body at the head of the state, its activities should be restricted to recommendations to the President, with the latter making decisions within his mandate. Yet the development of an ethical charter for TV channels is not in the President’s mandate. If this is an organ of governing and regulating, including broadcasting, its governing or regulating competence should be stipulated by some law or other official act. Yet there are no provisions of the kind. Therefore, the Charter, too, is nothing more but an awkward attempt to actually influence television, coming from authorities, but disguised as voluntary safeguarding of public interest by our broadcasters. Such “dubiousness” cannot be productive by definition. There should be a law enforced that complies with modern democratic standards. Besides, the protection of public interest, rights of citizens can be fostered only by an independent, voluntary and comprehensive media self-regulation institute. When none of these components is present, no surrogate initiatives can help the improvement of the TV quality.

Secondly, what has suddenly happened to our leading broadcasters that for many years were denying the idea of unified professional standards and now rush to sign the Charter all together?! This is certainly not the reputation of the Public Council that affected them. It is just that our leading broadcasters have grown so used to the role of obedient implementers that they have learned to decipher the will “from the above” even with no direct instructions. Their behavior becomes more topical now that the broadcast licensing competitions are at hand.

Another question prompts itself: what is so bad about the Charter? In the worst case scenario, nothing will change on our air, in the best one - a couple of tasteless programs would disappear. Yet, unfortunately, such initiatives are never harmless. Appearance of any, even, at first glance, very weak illegitimate lever of influencing the media deteriorates the freedom of expression in our country, which is poor as it is. And most importantly, the replacement of real reforms in broadcasting by bad make-up does little more than distantiate the prospect of improvement of Armenian TV air.

Suppose such Charter, with the same initiators and signatories appeared two years ago. Would we have the same unimpeded and immoral propaganda as during the presidential election campaign of 2008 and particularly after what happened on March 1? Would the authors of the document try to apply the principles they now declare and stop that dirt torrent in the air? And how and in what ways would they do that? Because this is when our media went on to another circle of diminishing morals that gave a reason for both the Charter and legislative initiatives to increase the responsibilities of journalists. We shall leave these questions open for further debate.”

ON APRIL 27 RA Administrative Court in Gyumri started hearing the suit of **Levon Barseghian, Board Chairman of “Asparez” Journalists’ Club of Gyumri**, versus the Governor of Shirak region.

On January 18 and 29, 2010 the head of “Asparez” addressed the Governor of Shirak region Lida Nanian, requesting to provide the following information: on budgetary funds, allocated in 2005-2009 for providing financial assistance to impecunious citizens of Shirak and the copies of relevant decisions of the Governor; on the expenditure of budgetary funds (2005-2009) by the article “Representation Expenses”, specifically, how many decisions were made every year, how much money was spent on their implementation, what services or goods were purchased with that sum and from who they were purchased. The requested information was granted partially, therefore Levon Barseghian filed the court. The plaintiff demanded to hold the inaction of the Governor, oblige Lida Nanian to fully reply to both inquiries, as well as exact the state duty for filling the suit.

The hearings on the case ended on June 16 with an amicable agreement concluded by the parties. The new Governor of Shirak region Ashot Gizirian engaged to fully provide with the requested information until July 1, while the Board Chairman of “Asparez” committed to withdrawing the suit and revoking his demand to the plaintiff on compensating the court costs.

By appreciating the willingness of the newly appointed Governor to work transparent, at the same time, Levon Barseghian noted that “Asparez” would address the RA Government and all the Governors with a proposal to ensure, at most, the access to the information on allocation of budgetary funds by regional heads for providing financial assistance to people in need.

Meanwhile, the information requested by “Asparez” was not granted till the end of 2010.

ON APRIL 29 the international human rights organization “**Freedom House**” released its annual **report on freedom of press in the world in 2009**. “Freedom House” assessed the media situation by assigning a numerical score from 1 to 100 on 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 environments in which media operate. The sum of all three dimensions yielded the cumulative rating of the media situation in each country. “Freedom House”

revealed an overall negative shift in media freedom worldwide throughout 8 years.

Even though comparing with 2008 the ranking of Armenia which got 66 points had moved up (versus 68 in 2008), the Armenian media was considered not free - they appeared in this category eight years ago, in 2002. According to "Freedom House", the improved scores of Armenia was "a result of reduced censorship and restrictions on news coverage".

ON APRIL 30 Argishti Kivirian, Coordinator of ARMENIA Today news agency, called a press conference at which he announced that the investigation of the assault made on him last year was unfruitful. On April 30, 2009 at about 5.00, strangers with bats attacked Argishti Kivirian on the way home from his office which was located in the next entrance. In a grave condition, with multiple injuries, also on his head, Argishti Kivirian was taken to hospital. Right after the incident the police instituted criminal proceedings on Article 117 of the RA Criminal Code - "Intentional non-grave health injuries", which was strongly criticized by lawyers, human rights organizations. Particularly, in their opinion, numerous blows requiring a hospitalization and other circumstances of the incident cannot be just qualified as "non-grave health injuries". Moreover, on the photos made by free lance journalist Gagik Shamshian at the site of the attack, a bloody bat and gun shells could be seen. The photos were placed on Internet sites on the very day of the incident (later they were published by the press), but the RA Police report did not say anything about the detection of shells. Later, the case was transmitted to the Investigative Department of the RA National Security Service, where it was requalified to Article 34-104 of the RA Criminal Code, i.e., murder attempt. On July 11, 2009 the court of general jurisdiction of Kentron and Nork-Marash communities of Yerevan selected arrest as preventive punishment in regard to two persons, accused for the murder attempt (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2008 on www.ypc.am in "Media Reports" section*).

At the meeting with the journalists Argishti Kivirian expressed his own version noting that the assault on him could have been ordered by Samvel Petrosian, Head of the Police of Akhalkalaki (the region of Armenian populated Samtskhe-Javakheti in Georgia). According to the information present on the website of ARMENIA Today on April 30, 2010, the investigation conducted by the journalist gave ground for such an allegation. In the opinion of Kivirian, the reason of the assault could have been the extremely critical articles about the Head of the Akhalkalaki Police. The Coordinator of ARMENIA Today also noted that the two men arrested on charges of murder attempt in July 2009 were released on March 8, 2010. According to Kivirian, not long before the assault, those two had met with the Head of the Akhalkalaki Police, moreover, one of them was Samvel Petrosian's relative. "Commenting upon the investigation as a whole, Kivirian stressed that the case will be procrastinated and suppressed after a while", the information of ARMENIA Today emphasized in particular.

As of the end of 2010 the investigation on the case continued.

MAY 2010

ON MAY 11 upon the order of RA General Prosecutor Aghvan Hovsepien a working group of 4 persons was formed. The group would be engaged in the reexamination of investigation records, as well as the criminal proceedings instituted during 2008-2010 on cases with media representatives, including the ones of impeding journalistic activities. Besides, the working group was to verify the legitimacy of the decisions rendered on those cases.

Meanwhile, as of the end of 2010 no information was received on the work of the group.

ON MAY 13 RA Government endorsed the draft law “**On Introducing Amendments and Supplements to RA Law ‘On Television and Radio’**”. The amendments to the Broadcast Law were elaborated by the RA Ministry of Economy and were justified by the need of switching from analog to digital broadcasting (the broadcast licensing competitions were to be announced on July 20, 2010). The draft , in particular, set forth a new order for holding licensing competitions and granting licenses. Thus, it was proposed that the licensing competitions were held by the National Commission on Television and Radio once every 10 years, starting from July 20, 2010. The number of TV channels in the digital broadcast network was limited by 18, from which 9 TV channels would be national (two - public, 6 - private, and one for rebroadcast), while the other 9 would be broadcasting in Yerevan (5 - private and 4 for rebroadcast). Moreover, private TV channels of Yerevan were to have a certain orientation: entertainment, youth, music, children, information and analytical. It was also foreseen that the new licenses would come into force since January 20, 2011.

Amendments to the Broadcast Law were discussed at the conference “Media Legislation and Self-Regulation Initiatives”, being organized on May 14 by “Partnership for Open Society” initiative.

On May 17 Yerevan Press Club, Internews Media Support NGO and Committee to Protect Freedom of Expression expressed a concern as to the haste with which the draft was developed by RA Ministry of Economy. In the statement three journalistic organizations, particularly, noted that the document does not show distinctly which provisions of the acting Law “On Television and Radio” were amended, removed or expanded - with regard to switching from analog to digital broadcasting. This impeded the conductance of effective discussion by the public, and further by RA National Assembly deputies.

By noting that in September 2008 a two year moratorium on holding broadcast licensing competitions was introduced on the plea of digitalization, the signatories emphasized that the study of draft law only reaffirms that this delay was unjustified. The moratorium damaged greatly the diversity and freedom of competition at the Armenian TV market. This draft law, which does not show any crucial and new approaches, could have been adopted two years ago. Meanwhile, the suspension of broadcast licensing competitions became an obstacle for the implementation of the judgment of the European Court of Human Rights of June 17, 2008 on the case of “A1+” TV company, as well as a number of PACE resolutions, the statement stressed.

The draft law does offer several new notions, it still does not provide mechanisms for regulating the relations between the entities involved in digital broadcasting and the process of digitalization. Besides, both the draft law and the Concept Paper on Digitalization of Television Broadcasting, adopted in November 12, 2009, do not include the principles for the envisaged social package, the types of licenses to be provided to TV companies as determined by these principles and grounds for their provision. The draft law does not dwell on the structure of investments required from the broadcasters, as well as on a number of other important issues.

The concern of journalistic organizations was raised by the specific number of TV broadcasters (18), prescribed by the draft law. Meanwhile, an objective and transparent audit of the TV frequencies has not been administered in Armenia, which was recommended by international experts. The limited number of licenses means in essence

that some of the TV companies operating now would lose their licenses, and increased barriers to entry for new TV companies, even those that are ready for digitalization. The signatories also emphasized that the assignment of necessary profiles for TV companies to be licensed, as it is done in the draft, is impossible without a serious study of public demand.

YPC, Internews and Committee to Protect Freedom of Expression also criticized the inclusion of provisions in the draft that are not in any way related to digitalization. At the same time, the draft does not solve crucial issues, such as: satellite broadcasting, the fate of acting regional TV companies, including the public “Shirak” channel, and their participation in licensing competitions, no distinction is made with regard to terms and procedures of broadcast licensing competitions.

On May 18 the OSCE Office in Yerevan presented the expert analysis of the aforesaid Concept Paper on Digitalization of Television Broadcasting. The analysis was made by Andrei Richter, Professor at Moscow State University, and Dr. Katrin Nyman-Metcalf, Professor at Tallinn University of Technology, on behalf of Office of OSCE Representative on Freedom of Media. The Concept Paper was assessed in frames of the commitments of Armenia towards OSCE, international standards and digitalization practices. At the presentation Dunja Mijatovic, the newly appointed OSCE Representative on Freedom of Media, who was in Armenia for the first time, spoke rather critical about the amendments to the RA Law “On Television and Radio”. During the visits of OSCE Representative on Freedom of Media (which took place on the same day) with RA President Serzh Sargsian, heads of RA Foreign Affairs Ministry, RA Ministry of Economy and Chairman of National Commission on Television and Radio, Grigor Amalian, the issues dealing with digitalization were discussed. Dunja Mijatovic expressed willingness to provide an expert assistance in the process of amending the broadcast legislation.

On May 20 at the session of RA National Assembly the draft “On Introducing Amendments and Supplements to RA Law ‘On Television and Radio’” was passed in first hearing. Since the draft has many shortcomings, the deputies decided to postpone the second hearing, and to hold parliamentary discussions on the issue on May 26.

On May 24 the draft law was discussed at the RA Human Rights Defender’s Office. The discussions were attended by Nerses Yeritsian, RA Minister of Economy, Grigor Amalian, Chairman of National Commission on Television and Radio, representatives of media, diplomatic missions, accredited in Armenia, international, non-governmental, as well as journalistic organizations. An opinion was expressed, noting that neither the amendments to the Broadcast Law, nor the governmental Concept Paper on Digitalization of Television Broadcasting give answers to several issues regarding the reforms of broadcast industry.

On May 26 parliamentary hearings on the draft law “On Introducing Amendments and Supplements to RA Law ‘On Television and Radio’” took place. The hearings were organized by the RA NA Standing Committee on Science, Education, Culture, Youth and Sport. In his opening address Hovik Abrahamian, Chairman of National Assembly, emphasized the same shortcomings of the draft, listed in the abovementioned statement of professional organizations. He also talked in favor of a serious revision of the document, before it is adopted in second hearing. The parliamentary discussions’ participants - initiators of the draft, NA deputies, journalists, experts - stated their points of view regarding the further improvement of the document and the broadcast sphere in whole. Yerevan Press Club, Internews, Committee to Protect Freedom of Expression and Open Society Institute Assistance Foundation-Armenia presented a number of issues which should necessarily be reflected in the official documents before the draft law is adopted.

YPC President Boris Navasardian suggested an action plan which would allow holding the upcoming licensing competitions of July 20 in lucidity and predictability of the reforms of broadcast sphere. First of all, a revised Concept Paper on Digitalization of Television Broadcasting has to be presented, responding to all key issues dealing with the process. Secondly, a laconic and clear draft law should be adopted, which will follow from the Concept Paper and become a legal basis for the upcoming broadcast licensing competitions. At the same time, a simplified procedure has to be proposed for obtaining a right to satellite broadcasting. This could be profited by TV companies deprived of frequencies as a result of the competitions. Thirdly, the parliament should assume a political commitment to develop within a half year a new broadcast legislation, reflecting all the key issues of reforming this sphere, including the guarantee of independence of the regulatory bodies. Artak Davtian, Head of NA Standing Committee on Science, Education, Culture, Youth and Sport, presiding at the hearings, promised that the recommendations would be thoroughly examined.

On June 1 Dunja Mijatovic, OSCE Representative on Freedom of the Media, called upon the Armenian authorities to bring the amendments to the RA Law “On Television and Radio” in line with international standards. “If adopted in its present form, the law would not guarantee pluralism in the broadcasting sector. The draft also fails to offer a solid basis for the upcoming process of digitalization. A good draft can safeguard independence of the broadcasters, thus promoting media freedom and at the same time stimulate a competitive and economically vibrant broadcasting sector in Armenia,” Dunja Mijatovic emphasized.

An analysis of the draft, made by Andrei Richter, Professor at Moscow State University, on behalf of Office of OSCE Representative on Freedom of Media, mentioned its main shortcomings:

- “ - a failure to oblige the National Commission for TV and Radio (NCTR) to explain any rejections of applications for broadcasting licenses;
- an indefinite delay to set up private digital channels while terminating analogue broadcasting by 20 July 2013. This can violate competition rules;
- it does not oblige the NCTR to make its frequency plans public at least once a year. This can make the procedure of licensing and tenders, the exact capacity and number of frequencies subject to different interpretations;
- a lack of clear rules for satellite, mobile telephone and online broadcasting, and an attempt to place all forms of broadcasting under a strict regime of licensing or permission by the NCTR;
- it does not follow international standards in the selection and appointment of members of the Council for Public Television and Radio;
- a limit to the number of broadcast channels without any explanation.”

On June 2 the amendments to the Broadcast Law were considered at the Public Council at the RA President. At the discussion the statement of Yerevan Press Club, Internews, Committee to Protect Freedom of Expression, “Asparez” Journalists' Club of Gyumri and Open Society Institute Assistance Foundation-Armenia was distributed. The statement summarized the recommendations and comments of NGOs, voiced during parliamentary hearings on the draft.

On June 3 the draft was considered at RA Ministry of Economy. As the Minister of Economy Nerses Yeritsian noted, some of the recommendations had been accepted.

On June 6 Yerevan Press Club, Committee to Protect Freedom of Expression, Internews Media Support NGO, "Asparez" Journalists' Club of Gyumri, Open Society Institute Assistance Foundation-Armenia released a statement, expressing their concern on the amendments to the RA Law "On Television and Radio", submitted for second hearing by RA National Assembly.

The statement of five NGOs noted that after the parliamentary hearings regarding the draft law, held on May 26, 2010, the interdepartmental commission on the digitalization of TV and radio broadcasts in Armenia initiated a discussion of the proposals made. Taking into account that the time left till the adoption of the draft in the second hearing and till July 20, the day the broadcasting licensing competitions are to be announced, is not sufficient for developing a complete and comprehensive draft law, as well as proceeding from the wish not to exert time pressure on the organizers and possible bidders of licensing competitions, the signatories proposed the following:

- before the second hearing only those provisions should be left in the draft law that are directly related to the digitalization of broadcasting and enable announcing and administering the licensing competitions. All other amendments and additions that are not directly related to digitalization and competitions should be withdrawn from the draft;
- the findings of the audit of broadcasting frequencies should be published, since that would give justification to the decision to license only 18 TV companies to broadcast in the state multiplex network;
- a provision should be stipulated on satellite broadcasting such that this kind of broadcasting is not contingent on possessing an on-air broadcasting license in Armenia;
- to develop additions to the Concept Paper on Digitalization of Television Broadcasting that would address all the issues and concerns raised at the parliamentary hearings held on May 26. These additions should be adopted by the Government before July 20.

During the working meeting on June 3, the representatives of Ministry of Economy and the interdepartmental commission assured that the action plan proposed by the NGOs would be adopted. However, only a few, but not the crucial, proposals were adopted, thus violating the agreements reached. The statement authors questioned the willingness and the ability of the Ministry of Economy and the interdepartmental commission to keep their promise and engage in constructive cooperation.

In conclusion, the five NGOs called the RA National Assembly not to discuss the amendments to the RA Law "On Television and Radio" until it was presented in the format and with the content as agreed.

The statement also urged international organizations not to assist the RA Government in the digitalization process until it presented an amended draft and proves that it can use the assistance effectively.

The statement was attended by the NGOs' Comments on the draft law (of 20 points).

On June 10 the European Union Delegation to Armenia called the Government and RA NA

deputies to continue working closely with civil society, the CoE and the OSCE experts with a view to bring the law in compliance with international standards to enhance plurality in the Armenian media and to promote media freedom.

Meanwhile, the draft law was on the agenda of the ordinary parliamentary session of June 7-10, 2010. However, the deputies did not have time for considering it, it was suggested to convene an extraordinary session.

In the evening of June 10 at the parliamentary extraordinary session the amendments to the RA Law "On Television and Radio" was passed in second hearing and finally.

The adoption of the amendments to the Broadcast Law raised new heavy critics.

On June 10 at the session of the OSCE Permanent Council in Vienna, Ian Kelly, the US Ambassador to the OSCE, recalled in his speech about the commitments of member States to respect and protect fundamental human rights such as freedom of the media and expression. While acknowledging the ongoing efforts of the Armenian Government to switch from analogue to digital broadcasting, the US Mission to the OSCE noted and shared with others concerns about the recent amendments to the RA Law "On Television and Radio", and "the likelihood that the amendments will reduce TV media pluralism as well as the Armenian public's access to diverse information and opinions".

"We welcomed the legal review conducted by the Office of the Representative on Freedom of the Media (RFOM) and presented to the Armenian Government on May 25, and its recommendations on how to modify the initial draft legislation. Because transparency and good-faith consultations with affected stakeholders on media reforms are crucial to their ultimate success, we fully supported the RFOM's key recommendation that Armenia's National Assembly deputies convene a working group composed of representatives of journalistic non-governmental organizations, opposition parliamentarians, and others to work on a fundamental revision of the draft law, fully taking into account the remarks and suggestions of the working group members, as well as the recommendations of international organizations and their experts. The Government's willingness to hold public consultations on the draft law is to be commended. However, the rushed legislative process unfortunately did not allow for the thorough public discussion that such important legislation merited.

While we welcome the fact that some changes were made to the legislation in line with the RFOM's recommendations, we note that a number of concerns and recommendations remain unanswered. For example, we note with concern that the amendments to the law will actually reduce the number of TV media able to broadcast in Armenia for some years, thereby restricting media pluralism.

In light of these concerns, we urge the Armenian Government and National Assembly to further amend the legislation, taking into account the OSCE's recommendations, in order to make the legislation consonant with international standards and OSCE commitments and to do so in an inclusive and transparent manner," the statement of Ian Kelly, US Ambassador to the OSCE, said.

In the statement of Dunja Mijatovic, OSCE Representative on Freedom of the Media (released on June 15), the adopted amendments to the RA Law "On Television and Radio" were considered as not promoting broadcast pluralism in the digital era. Among the main shortcomings of the draft Dunja Mijatovic marked the following: the reduction of the number of TV channels; the lack of clear rules for licensing of satellite, mobile and online

broadcasting; the placement of all forms of broadcasting under a regime of licensing or permission by the regulatory body; the granting of authority to the courts to terminate broadcast licenses based on provisions in the law that contain undue limitations on freedom of the media; the lack of procedures and terms for the establishment of private digital TV channels.

“Armenia should not lose the opportunity to adopt forward-looking media legislation. New technologies, including digital broadcasting, should be used by governments to strengthen media pluralism. These technologies can improve access to information and enable the public to seek, access and impart information,” Dunja Mijatovic stressed. In conclusion the OSCE Representative on Freedom of the Media emphasized that her Office is ready to continue its support to the Armenian authorities in all legislative reforms related to media freedom.

The letter of international organization Human Rights Watch to RA President Serzh Sargsian (June 15) called to refrain from signing the law and instead return it to the parliament with the aim of bringing the document into compliance with Armenia's international obligations on freedom of expression. The message of Human Rights Watch highlighted the main shortcomings of the adopted draft, as well as the failure to require the National Commission on Television and Radio to provide explanations for its decisions to reject broadcasting license applications. Human Rights Watch also pointed out the obligation of Armenia to fulfill the ruling of European Court of Human Rights of June 17, 2008 on the case of “A1+” TV company.

On June 17 RA President Serzh Sargsian signed the Law “On Introducing Amendments and Supplements to the RA Law ‘On Television and Radio’”.

On June 24 the co-rapporteurs on Armenia of the Parliamentary Assembly of Council of Europe, John Prescott and Georges Colombier expressed their concern about the amendments to the RA Law “On Television and Radio”. John Prescott and Georges Colombier marked that several highly-respected organizations have criticized the amendments for failing to ensure the required pluralistic media environment in Armenia. According to PACE co-rapporteurs (as adopted in several of its resolutions), the reform of the legal framework for the Armenian media should not only result in a fully transparent licensing procedure, but also in a far more diverse and pluralistic media environment than is currently the case in Armenia.

ON MAY 18 RA National Assembly adopted in second hearing and finally **the draft law package “On Introducing Amendments and Supplements to RA Civil Code”, “On Introducing Amendments to RA Criminal Code”, “On Introducing an Amendment to RA Criminal Procedure Code”**. Draft laws, decriminalizing libel and insult, as well as introducing the institute of moral loss compensation, were adopted in first hearing on March 18, 2010. Yet, unlike the amendments, stiffening penalty for impeding journalistic activities and protecting the information sources (*see above*), this package could not be definitely welcomed.

Although both international organizations and Armenian journalistic community had been talking about the necessity of decriminalization of libel and insult, this issue required a high level of qualified and responsible approach. Meanwhile, within the year, the whole process of developing the legislative package raised serious concerns by the journalistic community. Its first version, prescribing only amendments to Civil Code, was initiated in weird circumstances by the Media Law Institute and did not deserve but mockery. Nevertheless, it immediately drew the attention of major TV channels, which are, as a rule,

indifferent to the problems of media legislation. In no less weird circumstances, without any prior discussion at the parliament, the draft was submitted to Venice Commission. After an extremely critical assessment of experts, it was turned into a package of draft laws. In fact, the further work consisted in simply transforming the remarks of Venice Commission experts in the package, without taking into account the Armenian legislative and law-enforcement practice. Moreover, this was carried out without consultations and discussions with journalists and NGOs, who actively work in the media sphere. It seemed that the hasty adoption of the document was a purpose in itself. This impression was backed up by the fact that despite the objections of RA Government, the package was approved in first hearing.

On April 9 parliamentary hearings, on which the representatives of journalistic community voiced a number of key observations, were held. For implementing the recommendations a working group, staffed by representatives of journalistic associations, including YPC, was formed under the NA Standing Committee on State and Legal Affairs.

Even though within the first and second hearings some changes to the Civil Code, proposed by the working group, were introduced to the draft law package, however, the final document, approved on May 18, still contained a number of important shortcomings.

Thus, the size of moral compensation is considered unjustified. It is envisaged, that while defining the size of the compensation the courts have to take into account the form of libel and insult, their extension, as well as the material status of the person, disseminating libel and insult. Nevertheless, in the absence of judicial precedents, such a vague formulation is fraught with arbitrary court decisions regarding the compensation size. This raises sufficient concerns of the media representatives who oppose the authorities and venture critics against them. One or two lost cases with demands to apply the largest size of moral loss can lead to the insolvency of such media.

Besides, as before the definitions of “libel” and “false denunciation” in Civil and Criminal Codes are not clearly distinguished. This can become ground for confusion in future, as it has been many times in the judicial and investigative practice of Armenia. In its turn, this fact does not permit to talk about the full decriminalization of libel. (*Herein a comment from YPC Weekly Newsletter, May 14-20, 2010, is presented.*)

ON MAY 31 during the opposition action in the center of Yerevan **Ani Gevorgian, correspondent of “Haykakan Zhamanak” daily** was detained and brought to Kentron Police Department.

In the press release of RA Police of June 1, the detention of the journalists was explained by the fact that Ani Gevorgian had used violence against policemen A.B.; therefore criminal proceedings were instituted against the journalist by Part 1 of Article 316 (“Violence against a Representative of Power”) of RA Criminal Code.

According to the information, published on June 1 in “Haykakan Zhamanak”, at the moment of detention Ani Gevorgian was accomplishing her professional duties - taking pictures of what was going on. According to the daily, the reason of detention could be the piece of Ani Gevorgian which criticized the clip praising RA Police and its head Alik Sargsian.

On June 1 Yerevan Press Club, Committee to Protect Freedom of Expression, Internews Media Support NGO, Media Diversity Institute-Armenia, “Asparez” Journalists' Club of Gyumri, Goris Press Club, Transparency International Anti-Corruption Center, Helsinki

Committee of Armenia released a statement, expressing a bewilderment that Ani Gevorgian, 23, could use violence against a policeman. The statement of 8 organizations stressed that on May 31 representatives of law enforcement bodies also impeded the work of **Syuzanna Poghosian, correspondent of “Haykakan Zhamanak” daily**, and **Lilit Tadevosian, correspondent of “Hayk” daily**. The journalists were detained and released afterwards. The signatories assessed these incidents as unacceptable for a democratic society, called to release Ani Gevorgian and stop the criminal prosecution instituted against her.

On June 2 US-based Committee to Protect Journalists expressed its concern with regard to the incident.

In the evening of June 3 Ani Gevorgian was released under obligation not to leave the place. The case against her was dismissed in November 2010.

JUNE 2010

ON JUNE 10 the Chairman of the Writers Union of Armenia Levon Ananian, the Chairman of the Union of Composers and Musicologists of Armenia Robert Amirkhanian, the Chairman of the Union of Cinematographers of Armenia Ruben Gevorgiants, the Chairman of the Painters Union of Armenia Karen Aghamian and the Chairman of the Union of Theatre Workers of Armenia Hakob Ghazanchian filed a suit at the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan versus the “Editorial Office of ‘Hayots Ashkhar’ Daily” LLC, **founder of “Hayots Ashkhar”**, and **the correspondent of the newspaper Kima Eghiazarian**. The reason of the suit became the piece of Kima Eghiazarian “To Sell, To Sell up To the End”, published in “Hayots Ashkhar” on April 27, 2010. The plaintiffs demanded to refute the information, as contained in the piece, discrediting their honor, dignity and business reputation. They also demanded to compensate their court costs in the amount of 1 million 500 thousand AMD (about \$ 4,100). On August 21, 2010 “Hayots Ashkhar” published a refutation, which was assessed by the heads of creative associations as insufficient.

The hearings on the case started on October 14, the judgment was released on October 29. The court secured the demands of the suit partially, obliging “Hayots Ashkhar” to publish the refutation text, as contained in the operative part of the court decision. Besides, the newspaper must compensate the court costs of the plaintiffs in the amount of 300,000 AMD. This decision was contested at the RA Civil Court of Appeal, which upheld it.

ON JUNE 25 the court of general jurisdiction of Shirak region resumed the hearings on the litigation between Gyumri Municipality and **founder of “Gala” TV company**, “CHAP” LLC. The trial regarded the right to use the city TV tower. The litigation on the case started on January 14, 2009 in line with the ruling of the RA Court of Cassation, which abolished (October 31, 2008) the decision of the court of primary jurisdiction of February 29, 2008. According to that decision, “GALA” founder was to stop using the city TV tower and to disassemble the equipment installed on it. The Court of Cassation resolved that the case should be redirected for reconsideration by the court of general jurisdiction of Shirak region, which had secured the motion of the defendant on technical court assessment of the tower at the very first session. On May 18, 2010, only a year and four months after the assignment of the court assessment, the representatives of RA Expertise Centre visited “GALA” TV company for examining the TV tower (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club reports for 2008 and 2009 on www.ypc.am in “Media Reports” section*). Nevertheless, at the session of June 25 the results of the expertise were not released.

As of the end of 2010 the hearings on the case continued.

ON JUNE 29 international human rights organization “**Freedom House**” released the annual study, “**Nations in Transit**”. The report provided an assessment of the state of democratic governance in 29 countries of former Soviet Union, Central and Eastern Europe within the period of January 1 till December 31, 2009. The democracy level was assessed by “Freedom House” by assigning a numerical score from 1 to 7 - the lower the score, the higher the democratic progress. The latter was determined by six parameters: national democratic governance; electoral process; civil society; independent media; local democratic governance; judicial framework and independence; corruption.

The section dealing with Armenia also described the situation with media independence. By noting that the Armenian legislation provides a sound framework for freedom of expression, “Freedom House” emphasized that the media environment improved in 2009, as compared to 2008 when “direct censorship was exercised by the government for 20 days following post-election unrest”. The transition from analogue to digital broadcasting, approved by the government in 2009, raised two main concerns: the lack of independence of media regulatory bodies and suspension of licensing competitions on TV and radio broadcasting. The amendment to RA Law “On Television and Radio”, enacted by the parliament in September 2008, suspended the broadcast licensing competitions until July 2010. “Six media organizations, including the Yerevan Press Club, announced that the amendment was aimed at ‘preserving and strengthening the currently practiced total control over broadcasters’”, the study of “Freedom House” said. It also stressed the insufficient degree of media self-regulation in Armenia, including in the areas of professional ethics and standards. The study highlighted cases of attacks against journalists, different forms of intimidation on media and their representatives. “Owing to the limited reach of print media and few genuinely independent outlets, which exist for the most part only online, Armenia’s independent media rating (like in the previous study - *Ed. Note*) remains at 6”, “Freedom House” concluded.

JULY 2010

ON JULY 7 RA Human Rights Defender *Armen Harutiunian* released an ad-hoc public report, “**Right to Freedom of Expression in the Republic of Armenia**”. The report touched upon the laws and other legal acts, regulating the media activities, international standards in the sphere of freedom of expression, the general situation with the broadcast domain. It also analyzed incidents with journalists, cases of restriction of press freedom. In whole the ombudsman considered the situation of freedom of expression in Armenia as “very alarming” and recommended taking relevant measures. Specifically, it was necessary to elaborate a package of amendments to the media legislation, which “will reduce the number of legal provisions that impede the establishment of the freedom of expression” and set forth additional guarantees for ensuring its progress.

ON JULY 9 court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan reconsidered the suit of Ijevan municipality (Tavush region) versus “**Investigative Journalists**” NGO and fully secured its demands. A year ago, on July 10, 2009, the same court jurisdiction found baseless the plaintiff’s demands 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” online publication (founder - “Investigative Journalists”) on May 5, and June 23, 2008, respectively, and also

printed on May 20 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 made for the attorney services be compensated. During the first examination the court revoked the suit. Ijevan Municipality appealed the decision to the RA Civil Court of Appeal. On November 13, 2009 the Court of Appeal secured the suit and redirected the case to reconsideration by the first court jurisdiction (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club reports for 2008 and 2009 on www.ypc.am in “Media Reports” section*).

At the session of July 9, 2010 court of general jurisdiction of Kentron and Nork-Marash held that the information in the abovementioned pieces was untrue and discredited the honor, dignity and business reputation of Ijevan Mayor. In fact, this time the court made a decision in favor of the plaintiff, by obliging the defendant to refute the information and to compensate the expenses of 930 thousand AMD (about \$ 2,500) made for the attorney services, as well as to pay the state duty for filling the court by Ijevan municipality.

The “Investigative Journalists” appealed this decision with the upper court jurisdiction.

On December 27 the RA Civil Court of Appeal partially secured the application of the “Investigative Journalists”, reducing the amount to be compensated by the NGO to 450 thousand AMD and upholding the other parts of the decision of the court of general jurisdiction.

At the session of December 27, 2010 the Civil Court of Appeal.

ON JULY 20 the National Commission on Television and Radio (NCTR) announced 18 competitions of broadcast licensing on the digital network. Such competitions were held in Armenia for the first time and were stipulated by the digital switchover from analogue broadcasting. For the same reason a two-year moratorium on holding broadcast licensing competitions was introduced in September, 2008. The term of the moratorium expired on July 20, 2010. On June 10, 2010 RA National Assembly adopted the amendments to the RA Law “On Television and Radio”, which were also justified by the need for preparing for digital transition. All the legislative changes were strictly criticized by journalistic and international organizations, which persistently noted that such a reform does not solve the key issues of the broadcast sphere and does not ensure pluralism of the TV air (*see above*).

The competitions, announced on July 20, provide for licensing of: 6 national TV channels (five are of general profile, one - for rebroadcast), 9 TV channels in Yerevan (each for - entertainment; youth; music; youth-educational/scientific; current affairs; general profile, and three - for rebroadcast), 3 regional TV channels (all are of general profile; in Gegharquniq, Lori and Tavush regions). The winners of the competitions were to be determined on December 16, 2010.

On July 27 the National Commission announced **another seven competitions** of TV broadcast licensing on the digital network. The competitions provided for licensing of local TV companies of general profile in seven Armenian regions: Ararat, Armavir, Kotayk, Shirak, Syunik, Vayots Dzor and Aragatsotn. The winners of the competitions were to be determined on December 23, 2010.

The Procedure for Holding Digital Broadcast Licensing Competitions was approved by the NCTR on June 28, 2010 in line with the amended Law “On Television and Radio”. According to the Procedure, NCTR members determined the winners of the competitions

by an open rating vote, assessing the bids at 10 points scale. Point 18 of the Procedure stipulated that the NCTR decisions, regarding the winners, were released right after they are rendered. The next Point prescribed that NCTR provided the applicants with “a duly justified and well-reasoned decision” in ten days.

According to the list released by NCTR, the competitions’ bidders were (in brackets is the order number of the competition):

- **for national TV channels of general profile** - “Armenia TV” CJSC, founder of “Armenia” TV channel (No.1); “Shant” LLC, founder of “Shant” TV channel (No.2); “Second Armenian TV Channel” LLC, founder of Second Armenian TV Channel (No.3); “Multimedia-Kentron TV” CJSC, founder of “Kentron” TV channel (No.4); “Husaber” CJSC, founder of “Yerkir Media” TV channel (No.5); “Ansver” LLC (No.6, for national re-broadcasting);

- **for the TV channels in Yerevan** - “ATV” LLC, founder of “ATV” TV channel (No.7, entertainment profile); “ALM Holding” LLC, founder of “ALM” TV channel, and “Yerevan TV Company” CJSC, founder of “Yerevan” TV channel (No.8, youth profile); “Dar-21 TV company” CJSC, founder of “Dar-21” TV channel (No.9, musical profile); “AR TV Company” LLC, founder of “AR” TV channel (No.10, youth/educational/scientific profile); “ArmNews” CJSC, founder of “ArmNews” TV channel, and “Meltex” LLC, founder of “A1+” TV channel (No.11, international/current affairs profile); “Kaym TV Company” LLC (No.12, for rebroadcast in Yerevan); “Paradiz” LLC (No.13, for rebroadcast in Yerevan); “Arajin Aliq” LLC (No.14, for rebroadcast in Yerevan); “Shark” LLC, founder of “Hay TV” channel (No.15, general profile);

- **for regional TV channels of general profile** - “Tavush TV” LLC (No.16, Tavush region); “Fortuna” LLC (No.17, Lori region); “Geghama Media Holding” LLC, a group of TV companies, which operate in several towns of the region: “Kyavar”, Gavar, “Zangak”, Martuni, “STV1”, Sevan (No.18, Gegharquniq region); “Telelex” LLC, founder of “Artashat” TV company (No.19, Ararat region); “Nor Dar, Nor Hazaramyak” LLC, founder of “Ayb” TV channel (No.20, Armavir region); “ArpaInform” LLC (No.21, Vayots Dzor region); “Abovyan TV Editorial Office” LLC, founder of “Abovyan” TV channel, and “Sirak” LLC (No.22, Kotayk region); “CHAP” LLC, founder of “GALA” TV company, and “Tsayg” LLC, founder of “Tsayg” TV channel (No.23, Shirak region); “Dzagedzor TV Company” LLC, founder of “Sosi” TV channel (No.24, Syuniq region); “Yerevan Media Holding” LLC (No.25, Aragatsotn region).

Only four competitions, No. 8, 11, 22, 23, had two bidders, in the others - the applicants had no rivals.

On October 18 the “**People’s TV**” Foundation was launched. The Foundation aimed to promote freedom of expression and to support “**A1+**” TV company, which was taking part in the broadcast licensing competitions. The Board of Trustees of the Foundation featured: President of Yerevan Press Club Boris Navasardian, Executive Director of Internews Media Support public organization Nouneh Sarkissian; writer and dramatist Karineh Khodikian (member of the NCTR in 2001-2007); Secretary of “Heritage” parliamentary faction Larisa Alaverdian; Chairwoman of the Association “For Sustainable Human Development” Karineh Danielian; Chief Editor of “Aravot” daily Aram Abrahamian; Head of “Forum” Legal Center Tigran Ter-Yesayan; Board Chairman of “Asparez” Journalists’ Club of Gyumri Levon Barseghian; Head of the Vanadzor Office of Helsinki Citizens Assembly Artur Sakunts.

The “People’s TV” Foundation organized a fundraising to support “A1+”. This action would help to determine the potential audience of “A1+”, deprived of license in April 2002, and consecutively - the social demand on resuming its broadcast. Bank accounts were open.

On December 1 “A1+” founder, “Meltex” LLC, made a request to the NCTR, demanding to grant the copies of the competition applications of “ArmNews” CJSC (the rival of “A1+” in competition No.11) and “Armenia TV” CJSC. In its reply, December 6, NCTR noted that the copies can be provided only after January 20, 2011. On December 15 the Board of Trustees “People’s TV” Foundation released a statement, noting: “By not granting “Meltex” LLC with the requested documents in reasonable time, NCTR failed to ensure the transparency of the competitions.” Thus, it violated the right of “A1+” founder to freedom of information and “undermined the impartiality of the competition”.

On December 2 RA Human Rights Defender Armen Harutiunian released two statements. The statements dealt with the results of the broadcast licensing competitions, which were to be announced on December 16 and December 23. In one of the statements the ombudsman urges the members of the NCTR “to manifest neutrality and transparency, to be guided by the principles of law, impartiality and fairness”, while determining the competition winners. Given that the competition results would directly “influence the level of protection of human rights in the field of information”, Armen Harutiunian expressed his readiness to consider within his competence the corresponding complaints - both ahead and after the competitions results are summed up. In the other statement the Human Rights Defender addressed to the NCTR Chairman Grigor Amalian demanding to find an opportunity for those TV companies, who would not receive a license, to continue broadcasting within a certain period - since the day of announcing the competition results until the new licenses take effect. According to Armen Harutiunian, this will allow the TV companies, who have lost the competitions, to fulfill their current contractual commitments and ensure the smooth cut-off of the air.

On December 14, the international human rights organization “Freedom House” called the Armenian authorities to grant a license to “A1+” TV company. “Freedom House” reminded about the 12 attempts of “A1+” to re-issue its license, the ruling of the European Court of Human Rights delivered in favor of the TV company, as well as about the civil action of collecting funds to support “A1+”. “A thirteenth denial of “A1+” lawful request for a license would be a slap in the face to advocates of free media everywhere. The people of Armenia, through their efforts to assist “A1+”, have clearly shown their support for press freedom. By re-issuing this license, Armenian authorities will answer their call for a more pluralistic and independent media”, said David J. Kramer, “Freedom House” Executive Director. “Ahead of 2012 parliamentary elections, there is a real opportunity for the Government of Armenia to demonstrate its willingness not only to turn the page in relation to the events of March 2008, but to correct past wrongs from more than two years ago”, added Sam Patten, “Freedom House” Senior Program Manager for Eurasia.

On December 16 the founder of “ArmNews” TV company was determined by the National Commission on Television and Radio to be the winner of competition No.11. The latter had received 44 points. The application of “A1+” founder got 2 points: 7 of the 8 NCTR members rating with 0 points. That zero of NCTR was considered by the “A1+” Head Mesrop Movsesian not to be the rating of the TV company’s application, but the one of the country’s current situation.

Deprived of license in 2002, “A1+” had further taken part in 12 broadcast licensing competitions, but every time its bids were scored by the NCTR lower than those of its rivals. The NCTR decisions of refusing a license to the TV company were considered by

the local and international community to be politically motivated. The attempts of “A1+” founder to challenge the decisions of the NCTR remained just as futile. Having gone through all levels of domestic courts, the founder of “A1+” addressed the European Court of Human Rights. On June 17, 2008 the ECHR recognized the refusals to grant a broadcast license to “Meltex” LLC to be a violation of Article 10 of the European Convention on Protection of Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas. The ECHR judgment quoted the PACE Resolution on Armenia of January 27, 2004, which concluded that the vagueness of the broadcast law in force had resulted in NCTR being given outright discretionary powers. Calls to the Armenian authorities to ensure an open, fair and transparent licensing procedure, in order “A1+” to resume its broadcast, have been persistently voiced out within 8 years in the documents of honorable international and foreign structures, including in many PACE resolutions.

The thirteenth unsuccessful attempt of “A1+” for resuming its air provoked a new tide of critics both in Armenia and abroad. International human rights organization “Freedom House” considered the denial of “A1+” lawful request for a license as a slap in the face to advocates of free media everywhere. The international organization “Human Rights Watch” assessed it as another setback for freedom of expression and information in Armenia. By expressing its great disappointment with the work of NCTR, the Board of Trustees of “People’s TV” Foundation stated: “NCTR and the Armenian authorities disregarded the ruling of the European Court of Human Rights on the case of “Meltex” LLC, a number of documents, the exhortations of respectable international organizations, as well as the opinion of its own public.”

After announcing the results of the competition No.11 the NCTR Chairman Grigor Amalian explained the decision of NCTR members mainly by the fact that the supporting documents on the financial assistance by foreign companies to the business program of “Meltex” LLC appeared to be forged. The companies, mentioned in the “A1+” application, simply do not exist, assured Grigor Amalian. “A1+” Head Mesrop Movsesian assessed these accusations as nonsense.

The NCTR decision on competition No.11, particularly, noted: “Even though, the volume of national production programs, the volume of own production programs, the possibility of ensuring pluralism, the professional background of the staff are satisfactory, the financial means for supporting them, as well as for providing technical resources, cannot be considered sufficient, given that the significant part of the supporting documents on the financial assistance (\$ 120,000 and 280,000 EURO) is forged and unjustified (...).” Namely, this fact rendered impossible for “A1+” to implement a complete broadcast in the digital network in Yerevan, assured the NCTR.

On December 20 the press conference of the Head of “A1+” TV company Mesrop Movsesian and the “A1+” attorneys Tigran Ter-Yesayan and Alexander Sahakian was held. At the press conference the representatives of “A1+” announced that due to the denial of the NCTR, “Meltex” LLC started a legal process.

According to “A1+” representatives, the business program, presented in the application, had sufficient financial support of more than \$ 1 million. A simple arithmetic calculation showed that the investments of other donors would be enough for implementing the program, the “A1+” representatives emphasized. And if NCTR had checked the information about the two potential investors, as Grigor Amalian told, then what did prevent it from requesting evidence from others? This particularly regarded the French company “SOS-Camping-Loisirs”, the main partner of “A1+” since 2003, who engaged for the largest

amount of 280,000 EURO. Meanwhile, as it was noted, NCTR had not addressed to “SOS-Camping-Loisirs” and the company has demanded the NCTR to explain the reasons for prejudicing its guaranties. “A1+” representatives informed that some of the main donors of the TV company have already confirmed their financial assistance and the corresponding documents were submitted to NCTR. As regards the two companies, considered to be “forged” by NCTR, “A1+” made an official request to the NCTR, demanding to provide with the correspondence dealing with the companies.

At the press conference the “A1+” representatives also informed that the same day, on December 20, “Meltex” LLC, founder of the TV company, filed the RA Administrative Court, demanding to bind the National Commission on Television and Radio to grant the copies of the competition applications of “ArmNews” CJSC and “Armenia TV” CJSC. The hearings on the case started on January 11, 2011. The NCTR representative expressed his readiness of granting the plaintiff with the copies of the competition applications of “ArmNews” and “Armenia” on January 20, 2011. On the date agreed the requested information was provided, and at the court session, held on the same day, the suit was revoked.

As regards the results of the other two digital broadcasts licensing competitions, as mentioned above, except for the four competitions, the vast majority of competitions had one applicant (all of them became winners). Besides the aforesaid competition No.11, as a result of NCTR voting the winners of the three competitions became: in competition No.8 - “Yerevan TV Company” CJSC, founder of “Yerevan” TV channel, which got 40 points (the application of the other candidate, “ALM Holding” LLC, founder of “ALM” TV company, was rated with 32 points); No.22 - “Abovyan TV Editorial Office” LLC, founder of “Abovyan” TV channel, which received 42 points (the other candidate, “Sirak” LLC, got 21 points); No.23 - “Tsayg” LLC, founder of “Tsayg” TV channel, which received 42 points (the other candidate, “CHAP” LLC, founder of “GALA” TV channel, got 14 points).

According to the legislation, the broadcast of Yerevan and national TV channels, which did not get licenses or did not take part in the competitions, was to be stopped on January 21, 2011. The regional TV channels will continue the analogue broadcast until January 2015.

SEPTEMBER 2010

ON SEPTEMBER 7 during the visit of RA Prime Minister Tigran Sargsian to Artik city (Shirak region) an incident occurred between one of the bodyguards of the Prime Minister and ***Kristina Mkrtchian, correspondent of “GALA” TV company.*** As “GALA” TV company informed YPC, when Tigran Sargsian passed near the journalists, the bodyguard pushed away Kristina Mkrtchian, snatched the microphone out of her hands and threw it on the ground. The statement of “GALA”, released on September 7, considered the incident as an impediment to the work of the journalist and stressed “the initially negative” attitude of the Prime Minister’s personnel towards the shooting crew of the TV company. The statement also emphasized that after the incident “the employee of the Prime Minister’s press service presented oral apologies” to the “GALA” journalist, “noting that the occurrence was on accident”. On the same day Aram Ananian, Assistant to RA Prime Minister, refuted the allegations of “GALA” about impeding the work of its shooting crew, stressing that the tripod of the microphone was broken as a result of the bodyguard’s negligent actions. The Assistant to RA Prime Minister also announced that the loss of “GALA” TV company would be compensated.

ON SEPTEMBER 16 the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of Mikael Amirkhanian, Rector of

Humanitarian Institute of Yerevan, versus “**Hetq**” **weekly** (the edition of “Investigative Journalists” NGO). The plaintiff demanded to refute the information discrediting his honor, dignity and business reputation, as contained in the piece “‘Yes, I Am Doing Business’, Says the Rector” (published in “Hetq” on June 3, 2010). Mikael Amirkhanyan also required compensating the material loss in the amount of AMD 200,000 (about \$ 550). At the session of October 1 Rector of Yerevan Humanitarian Institute recalled his suit. The decision of the plaintiff was conditioned by the fact that the information to be refuted reflected the opinion of the student of Yerevan Humanitarian Institute, published in “Hetq”. At the session of October 14 the court resolved to terminate the case.

ON SEPTEMBER 18 the RA President’s Press Secretary Armen Arzumanyan informed about the initiative of Serzh Sargsyan of forming **a working group to improve the legislation, regulating the process of switching from analogue to digital broadcasting in Armenia**. It was suggested that the group head the RA Human Rights Defender Armen Harutiunian. This initiative was stipulated by the vivid discussions around the RA Law “On Television and Radio”, opinions, expressed by politicians and NGOs, the President’s Press Secretary noted. Armen Arzumanyan voiced a hope that the involvement of interested organizations and persons in the working group may assist in solving the crucial problems of the broadcast sphere.

In July 2010 the National Commission on Television and Radio announced 25 competitions of TV broadcast licensing on the digital network. Such competitions were held in Armenia for the first time and were determined by the switchover from analogue to digital broadcasting. For the same reason a two-year moratorium on holding broadcast licensing competitions was introduced in September 2008. The term of the moratorium expired on July 20, 2010. On June 10, 2010 RA National Assembly adopted the amendments to the RA Law “On Television and Radio”, which were also justified by the need for preparing for digital transition. All the legislative changes were strictly criticized by journalistic and international organizations, which persistently noted that the measures taken do not solve the key issues of the broadcast sphere and do not ensure pluralism of the TV air (*see above*).

On October 6 at the plenary session of the Parliamentary Assembly of the Council of Europe, being held in Strasbourg, the **Written Declaration No. 457** was presented. The document, demanding to modify the RA Law “On Television and Radio”, was prepared by the “Heritage” party of Armenia. The Declaration mainly noted that the RA Law “On Television and Radio” impedes pluralism in the media and limits the freedom of information. The amendments, made to the Broadcast Law and adopted by RA National Assembly on June 10, 2010, “only expand state control over television and radio broadcasting”. “Opposition parties, the Assembly Monitoring Committee’s co-rapporteurs on Armenia and the OSCE clearly criticized the aforementioned changes”, the Declaration emphasized. In the document the amendments to the Broadcast Law were considered to be obstructing the June 17, 2008 decision of the European Court of Human Rights on the case of “A1+” TV company. Thus, they are aimed at limiting and reducing the number of television stations, and restricting the broadcast airwaves for new TV companies. The changes will result in further abuse of this Law, specifically including: an unclearly defined licensing system for broadcasting via satellite, mobile and Internet; the imposition of restrictive licensing requirements; granting courts sweeping powers over broadcasting licenses and unjustified limitations on media freedom. In the end the Declaration demanded the Armenian authorities to modify the Broadcast Law within a reasonable time-frame, in conformity with international standards and that the opposition is allowed to participate in the process.

The members of the group were announced on October 8. The group involved: Armen Harutiunian, RA Human Rights Defender; Boris Navasardian, President of Yerevan Press Club; Nouneh Sarkissian, Executive Director of Internews Media Support public organization; Arzuman Harutiunian, President of Audio-Visual Reporters Association; David Sandukhchian, Legal Director of “ArmenTel” CJSC; Marineh Hakobian, Expert of RA National Assembly Standing Committee on Science, Education, Youth and Sport; Artak Sargsian, Head of Legal and Licensing Department of National Commission on Television and Radio; Aleksan Arakelian, Head of Financial Service, Chief Financial Officer of the Council of Public Television and Radio of Armenia; Armen Ter-Tatchatian, member of Public Council at RA President; Ashot Simonian, General Director of “Television and Radio Broadcasting Network of Armenia” CJSC of the RA Ministry of Transport and Communication.

On October 11 the first meeting of the working group took place. On October 13-15 at the ombudsman’s Office the group members met with CoE Expert Eve Salomon and Professor of Moscow State University Andrei Richter, the co-author of the expert analysis of the Concept Paper on Digitalization of Television Broadcasting, developed by the RA Government. The study was implemented on behalf of Office of OSCE Representative on Freedom of Media. Eve Salomon and Andrei Richter introduced to the group members the remarks and recommendations, reflected in their expert analysis on the Armenian broadcast legislation, as well as they provided consultation on possible paths of improving the aforesaid legislation.

On October 29 at another session of the working it was resolved to work out an amendments’ package to the current RA Law “On Television and Radio”, instead of drafting a new broadcast law.

As of the end of 2010 the work on improving the broadcast legislation continued.

OCTOBER 2010

ON OCTOBER 20 “Reporters without Borders” (RSF) international organization released its ninth annual **Worldwide Press Freedom Index**. The study was conducted in 178 countries and based on events between September 1, 2009 and September 1, 2010. The rating of Armenia has improved by 10 points (111 in 2009 versus 101-102 in 2010). Nonetheless, the reasons of the changes were not indicated in the RSF report.

NOVEMBER 2010

IN THE EVENING OF NOVEMBER 3 an incident occurred between **Nikol Pashinian**, Chief Editor of “Haykakan Zhamanak” daily, who served his sentence at “Kosh” penitentiary, and one of his cellmates. On January 19, 2010 the court of general jurisdiction found Nikol Pashinian guilty in mass riots of March 1, 2008 in Yerevan, and sentenced him to seven years of imprisonment. On March 9, 2010 the RA Criminal Court of Appeal, by applying an amnesty on Nikol Pashinian, cut down his unexpired term of imprisonment by half (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2009 on www.ypc.am in “Media Reports” section*).

In his diary from prison, published in “Haykakan Zhamanak” on November 5, 2010, Nikol Pashinian presented the details of the incident. In particular, the cellmate told the journalist that “many reputable persons” don’t approve his articles, activities and conduct, and he has to stop the publication of his articles. According to Nikol Pashinian, after the verbal skirmish the cellmate attacked him. Meanwhile, during the 15 minutes of the scramble no

one of the jailers came up to the ward, the journalist noted. This and many other facts indicate on the deliberate nature of the incident, stressed Nikol Pashinian.

More than twenty media heads, NGOs and journalists condemned the incident. The statement, released on November 4, 2010, contained a demand to the Armenian authorities to ensure the security of Nikol Pashinian, to consider and resolve the issue of his release pursuant to the PACE recommendations.

In its statement of November 5, 2010 the RA Ministry of Justice noted that the dispute between the prisoners had an everyday nature, and the assertion about the ties of some “political forces” to the incident is far from reality.

On the early morning of November 11 at “Kosh” penitentiary a new incident occurred with Nikol Pashinian. According to Chief Editor of “Haykakan Zhamanak”, at about 2.30 two men in black and in masks attacked the journalist, who was lying on the plank-bed, and started to beat him. When Nikol Pashinian called for help, the strangers left the ward. The jailers, who came up to the ward, took the journalist to the front office, where he had a medical examination. Soon the members of the Public Monitoring Group over the RA Penitentiary Institutions by the RA Ministry of Justice visited the journalist. In the statement of RA Ministry of Justice of November 11, 2010 the incident was assessed as “an insatiable desire to create an illusion of violence against Nikol Pashinian in any way”. Meanwhile, the details of the incident were described in Nikol Pashinian’s diary from prison, published in “Haykakan Zhamanak” on November 12, 2010.

On November 16 an action to support Nikol Pashinian was held in the center of Yerevan. The action was attended by the heads of media and NGOs. The statement signed by them, specifically, urged the Armenian authorities to take appropriate measures for ensuring the security and inviolability of Nikol Pashinian, as well as to settle the issue of his release.

The same day, on November 16 at “Kosh” penitentiary the court of general jurisdiction of Aragatsotn region started hearing the suit of Nikol Pashinian versus Tigran Navasardian, Head of “Nubarashen” penitentiary. As mentioned above, as result of an amnesty the term of punishment of Nikol Pashinian was cut by half, nevertheless, the duration of his imprisonment was to be determined by “Nubarashen” penitentiary, where the Chief Editor of “Haykakan Zhamanak” - before his transfer to “Kosh” - was serving his sentence. On May 25 the Head of “Nubarashen” penitentiary Tigran Navasardian determined the duration of Nikol Pashinian’s detention - 3 years 10 months and 29 days. Considering that this term is overrated by more than 5 months, the Chief Editor of “Haykakan Zhamanak” contested it at the court of general jurisdiction.

At the session of November 19 the suit was revoked.

On November 23 the RA Human Rights Defender Armen Harutiunian addressed to Hayk Harutiunian, Head of the Criminal-Executive Department of the RA Ministry of Justice, to provide legal justification for transferring Nikol Pashinian to the isolation ward right after the incident of the early morning of November 11 happened.

Since November 23 a number of Armenian media had started publishing the photo of the “Haykakan Zhamanak” Chief Editor with a call “Freedom to Nikol!” The same demand was presented by more than 30 ex-prisoners, who were condemned for the events of March 1, 2008, like Nikol Pashinian. At the action of November 24 in Yerevan, a statement to support Nikol Pashinian, signed by 108 intellectuals, was disseminated. On November 26

the heads and representatives of Armenian media organized another action. On November 30 “Haykakan Zhamanak” published the message of more than 50 representatives of the Armenian Diaspora of USA and Canada, demanding to ensure the security of Nikol Pashinian. The November 30 statement of the Chairman of the Writers Union of Armenia Levon Ananian, the Chairman of the Union of Theatre Workers of Armenia Hakob Ghazanchian and the Chairman of the Architects Union of Armenia Mkrtich Minasian noted in particular that it is not befit to Armenia, as a country standing on the path of democracy, to hold a journalist in detention: “Whether we share the political views of the journalist or not, given that his life is in danger, we solicit the Armenian authorities for demonstrating impartiality in this issue.” On December 1 more than 30 Armenian scientists, including 15 Acting Members of the RA National Academy of Science, came up with the same demands.

On November 30 it was reported that Nikol Pashinian was transferred from “Kosh” to “Artik” penitentiary. According to the press release of the Criminal Executive Department of RA Ministry of Justice, the reason for transferring Nikol Pashinian to “Artik” penitentiary were “his numerous violations detention conditions”, as well as the conflicts with other prisoners.

On December 2 the US Committee to Protect Journalists (CPJ) called the Armenian authorities to undertake an investigation of the incidents, occurred with Nikol Pashinian during his detention at “Kosh” penitentiary. It also urged the heads of the penitentiary systems to ensure the security of Nikol Pashinian. On December 3 the Center for Journalism in Extreme Situations of Russian Journalists’ Union announced about its decision to uphold the international solidarity action to support Nikol Pashinian.

On December 13 Nikol Pashinian made a statement about the vital violations of his rights at “Artik” penitentiary. Nikol Pashinian particularly noted that he was deprived of the right to exercise his professional activities, to consult his lawyer in private and to be in correspondence with relatives. As the journalist said, everyday he handed an envelope with an article to the prison administration, but “Haykakan Zhamanak” does not receive it. Nikol Pashinian stressed that the representative of “Artik” penitentiary advised him to stop writing letters, “as they will not be sent anyway”.

In the December 16 press release of RA Ministry of Justice the allegations of Nikol Pashinian were considered as untrue. As the Ministry assured, he enjoyed the same rights as the other prisoners.

On December 30 the investigative bodies resolved not to institute criminal proceedings on the incident happened to Nikol Pashinian at “Kosh” on the early morning of November 11 - for absence of corpus delicti.

ON NOVEMBER 26 the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan submitted to consideration the suit of the spouse and the son of the Second President of Armenia Robert Kocharian, Bella and Sedrak Kocharians, versus “Skizb Media Kentron” LLC, **founder and publisher of “Zhamanak” daily**. The reason of the suit became the pieces published in “Zhamanak” on September 25, September 29 and October 7, 2010. The articles dealt with a number of companies, which were reportedly owned by the Kocharians’ family or managed through the third parties. The representative of Kocharians’ family had sent a letter to the daily’s founder, demanding to come up with a refutation. On October 28, 2010 “Zhamanak” published a piece, “Kocharian’s Heart Desires a Refutation”. Considering that the piece cannot be a refutation, as it still contained discrediting information, the plaintiffs filed the court,

demanding to bind “Zhamanak” to refute the information damaging the honor, dignity and business reputation of Bella and Sedrak Kocharians, exact 3 million AMD (about \$ 8,200) from the defendant as compensation for libel and defamation, as well as compensate the court expenses of 3 million AMD.

As of the end of 2010 the hearings on the case had not started.

DECEMBER 2010

ON DECEMBER 25 the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan ended the hearings 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 litigation on the case started on October 13, 2009. 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. The plaintiff demanded to refute the information discrediting his honor and dignity, exact 5 million AMD (about \$ 13,000) from the respondent as a moral loss compensation and to cover the costs of the lawyer in the amount of 2 million AMD (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2009 on www.ypc.am in “Media Reports” section*).

At the session of December 25 the court obliged “Hraparak” to publish a refutation and pay off the attorney fees made by the plaintiff in the amount of 370,000 AMD.