



YEREVAN PRESS CLUB

**2011: A YEAR OF UNPRECEDENTED NUMBER OF  
DEFAMATION LAWSUITS VERSUS MEDIA**

**Annual Report of Yerevan Press Club**

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### JANUARY 2011

**ON JANUARY 10 and 14 Levon Barseghian, the Board Chairman of “Asparez” Journalists’ Club of Gyumri**, addressed letters to Grigor Amalian, Chairman of the National Commission on Television and Radio (NCTR), informing about the legislation violations by the **First Channel of the Public Television of Armenia** on the air of December 31, 2010 and January 1, 2011. The reason for inquiring NCTR, the broadcast regulatory body, was the monitoring results of the PTA First Channel, administered by “Asparez” on the New Year days. The letters were attended by detailed tables on the monitoring findings.

Levon Barseghian, particularly, noted that on December 31, 2010 commercial advertising on the air of PTA First Channel exceeded the legislative limits: in TV programs of overall duration of 16 hours 7 minutes and 34 seconds (since 07:52:26 till 24:00:00) the advertising made 2 hours 1 minute and 57 seconds, or the 12.6% of the total airtime. And on the 24-hour air of January 1, 2011 (since 00:00:00 till 24:00:00) the duration of commercial advertising made 2 hours 20 minutes and 28 seconds, or 9.8% of the total airtime. Hence, the provision of the RA Law “On Television and Radio”, defining a 7% restriction on the advertising volume for the total airtime, was violated. Besides, several programs of PTA First Channel were interrupted by advertising blocs and/or sponsor references more often than it is authorized by Point 2 of Article 9 of the RA Law “On Advertising” (a TV program can be interrupted by an advertisement only every 20 minutes).

On February 7 and 10 the Head of “Asparez” addressed a letter to the NCTR once again. This time the letter referred to the monitoring of the air of PTA First Channel administered on January 14 and 15, 2011, which had also fixed a violation of the 7% limit and other violations of Point 2 of Article 9 of the Law “On Advertising” in some programs. Thus, on January 14 in TV programs of overall duration of 18 hours 1 minute and 56 seconds (since 07:51:14 till 01:47:10) the advertising made 1 hour 39 minutes and 29 seconds, or the 9.2% of the total airtime; whereas, on January 15 in TV programs of overall duration of 18 hours 33 minutes 24 seconds (since 07:49:09 till 02:22:33) -1 hour 32 minutes 42 seconds, or 8.3%.

In the letters to the NCTR “Asparez” head demanded to consider the presented findings, call the lawbreakers to account, as well as to inform about the measures taken. The copies of the letters were sent to the Chairman of the Council of the Public TV and Radio Company Alexan Harutiunian and the Head of RA President’s Control Service Hovhannes Hovsepian

In his response, dated February 11, 2011, NCTR Chairman informed that he had addressed the Council of Public Television and Radio Company inquiring some elucidations. Considering them as grounded, Grigor Amalian redirected the comments of PTRC Council Chairman Alexan Harutiunian to “Asparez”. Alexan Harutiunian specifically stressed that the Public Television of Armenia starts its daily broadcast at 8.00 and ends it

at 8.00 of the next day; whereas “Asparez” monitoring covered only a part of the First Channel overall airtime. According to Alexan Harutiunian, the total airtime of the Public Television makes 48 hours ( 24 hours - First Channel, and 24 - “Ararat” TV channel), and the calculations should proceed from this data. Thus, as asserted the PTRC Council Chairman, there was no violation of the 7% limit on advertising by the PTA First Channel on the monitoring days. The PTRC Council Chairman sidestepped the issue of frequent interruptions of several programs by advertising blocs and/or sponsor references.

Commenting on the reply of Grigor Amalian, Levon Barseghian expressed his dissatisfaction that NCTR had not examined the issue thoroughly, and had only relied on the PTRC Council Chairman, who in its turn did not answer to all the questions of “Asparez”. In particular, Levon Barseghian was amused that according to Alexan Harutiunian, the Public Television total airtime volume is 48 hours. Proceeding from that logic, one had to take into account not only the airtime of First Channel and “Ararat”, but also other public TV channels - “Shirak” TV, satellite broadcast of First Channel, and Public Radio of Armenia, Levon Barseghian emphasized. Besides, Levon Barseghian stated that Grigor Amalian and Alexan Harutiunian could not be unaware that the First Channel implements a 24-hour broadcast in the Armenian regions, including Shirak region, only on January 1 and 2, while on the other days it broadcasts 18-19 hours. Thus, “Asparez” has monitored the whole broadcast of First Channel, covering Shirak region.

Since March 1 "Asparez" continued the monitoring of advertising volume and its distribution on the air of First Channel of Public Television of Armenia. The study will be administered until March 2012 under a project of “Asparez” supported by Open Society Foundations-Armenia and Counterpart International Armenia. Within 2011 “Asparez” had published three interim reports. According to the gathered data, during all the stages studied PTA First Channel had violated the legislation in force, particularly by exceeding the advertising volume. The monitoring data are available on [www.asparez.am](http://www.asparez.am).

**IN THE EARLY MORNING OF JANUARY 17** in Vanadzor (Lori region) the car of the **Chief Editor of “Lori” TV company *Narineh Avetisian*** was set on fire. The journalist found this out in the morning, when she opened the doors of the garage. According to her, there were rags on the burnt body of the car, which were allegedly thrown through the ventilation hole of the wall. The head of “Lori” did not express any possible versions on the incident reason. On January 17 the Vanadzor Branch of Helsinki Citizens Assembly released a statement, considering the incident with Narineh Avetisian as another infringement upon a journalist, and demanded to find and punish the criminals.

Vanadzor Department of the RA Police of Lori region instituted criminal proceedings on the case by Article 185 of RA Criminal Code ("Premeditated destruction or spoilage of property"). However, according to Narineh Avetisian, the assaulters were not revealed and the case was dropped.

**ON JANUARY 17** the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the case on the suit of RA National Assembly MPs Samvel Aleksanian (unaffiliated), Levon Sargsian and Ruben Hayrapetian (members of Republican Party of Armenia faction) versus **the founder of “Haykakan Zhamanak” daily, “Dareskizb” LLC**. The reason for the suit became the piece “Seven of the Eight Are in the List”, published in “Haykakan Zhamanak” on October 14, 2010. The article told that some of the Armenian officials and businessmen, including the abovementioned RA NA deputies (who are at the same time major entrepreneurs), appear in a number of criminal cases, instituted by the Russian law enforcement bodies. The MPs

demanded to refute the information that discredits their honor, dignity and business reputation, as well as to compensate the moral loss in the amount of 2 million AMD each. Besides, each of the plaintiffs assessed its' court expenses with 500,000 AMD. Thus, the overall amount of the financial claims versus the respondent made 7.5 million AMD (about \$ 20,500).

On February 7 the ruling on the suit was released. The court of first jurisdiction obliged the founder of "Haykakan Zhamanak" to pay off 2 million AMD as a moral compensation and the state duty for filling the court of 44,000 AMD to each of the deputies. Thus, the overall amount made 6 million 132 thousand AMD (about \$ 16,800 AMD).

The "Haykakan Zhamanak" founder contested this ruling. On June 9 RA Civil Court of Appeal resolved to uphold the judgment of court of general jurisdiction finding no grounds for reconsideration.

On August 3 RA Court of Cassation, in its turn, revoked the complaint of "Haykakan Zhamanak" founder on holding invalid the ruling of the court of second jurisdiction.

"Dareskizb" LLC announced about its intention to address the European Court of Human Rights. According to the attorney of "Dareskizb" Vahe Grigorian, the suit versus the Republic of Armenia was presented to the European Court in October.

In the conclusion released on October 20 the Council on Information Disputes concluded that within the given case the courts have made an inproportional intervention in the media's right to freedom of expression. (The missions of the Council, established on May 1, 2011, list preparation and release of advisory expert conclusions on court litigations regarding defamation - *see below*.) The Council particularly noted that after publishing the contested article "Haykakan Zhamanak", already in the pre-court stage, issued on November 2, 2010 an interview with the source of information. In the piece the source of information did accept the fact of provision of information. According to the Council, the fact that the media disclosed its source proves an act of fair journalism, presence of trust by the media towards its source, absence of actual malice, and that the individuals offended by the media were given a reasonable opportunity to protect themselves. The balanced coverage is manifested by the fact that the author of the article has avoided using the expression "participation" by the abovementioned MPs in crimes, on which criminal proceedings were instituted. The Council believed that the courts did not use the aforesaid criteria in passing their verdicts. Moreover, the court procedure was carried out so that the representative of the media was not given the chance to present its arguments. Besides, the Council did not share the conclusion of the Court of Appeal, according to which "the respondent could have been released from responsibility only if the article clearly referred to another person's public speech, which had taken place before the publication, and if this reference was verbatim or an accurate reproduction of another person's public speech". According to the Council, such conclusion has a limiting nature. At the same time, the Council stressed the requirement for the journalist to sufficiently distinguish himself/herself from the defamatory announcements in the publication: in all cases the reader has to get an impression that the announcement does not come from the media, but is a citation of the journalist's source. As for the compensation of 6 million AMD, established by the court, the Council found it disproportionate.

On October 27 the founder of "Haykakan Zhamanak" paid off the compensation to the plaintiffs upon the order of RA Service of Compulsory Execution of Judicial Acts. The liability was partly covered by the donations of partisans and readers of "Haykakan

Zhamanak". The fundraising for supporting the newspaper and helping it to survive from bankruptcy was initiated on September 15 by Armenian National Congress (a coalition of opposition parties).

**ON JANUARY 21** RA Criminal Court of Appeal started considering the complaint of **Nikol Pashinian, Chief Editor of "Haykakan Zhamanak" daily**. The latter had appealed the decision rendered by court of first jurisdiction on November 19, 2010 on the suit against Tigran Navasardian, Head of "Nubarashen" penitentiary. During the 2008 presidential elections Nikol Pashinian was a member of the election headquarters of presidential candidate, RA First President Levon Ter-Petrosian. On January 19, 2010 Nikol Pashinian was found guilty in mass riots of March 1, 2008 in Yerevan, and sentenced to seven years of imprisonment. On March 9, 2010 the Criminal Court of Appeal, by applying an amnesty on Nikol Pashinian, cut down his unexpired term of imprisonment by half. The duration of his imprisonment was to be determined by "Nubarashen" penitentiary, where the Chief Editor of "Haykakan Zhamanak" was to serve his sentence. The term, defined by Tigran Navasardian, Head of "Nubarashen", made 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 of Aragatsotn region, which revoked the suit on November 19, 2010 (see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2010 on [www.ypc.am](http://www.ypc.am) in "Media Reports" section).

At the session of January 21 the court secured the petition of Nikol Pashinian's attorney, Yervand Varosian, to hold the hearings in presence of his client. Thus, the trial continued at "Artik" penitentiary, where Nikol Pashinian was detained.

On February 14, before the beginning of another court session, Nikol Pashinian claimed that his constitutional rights were being violated at "Artik" penitentiary. Particularly, Chief Editor of "Haykakan Zhamanak" stressed that since he has been transferred to "Artik" the prison administration prohibits him from being in correspondence and handling any papers to his attorneys. At the session Nikol Pashinian mentioned that he cannot discuss the litigation process with the attorneys, as he is not allowed to take out his notes of the cell.

On February 18 Criminal Court of Appeal revoked the application of Nikol Pashinian, upholding the punishment term, determined by the Head of "Nubarashen" penitentiary.

On March 1 RA General Procuracy informed about the institution of criminal proceedings on the case of assault on Nikol Pashinian at "Kosh" penitentiary in the early morning of November 11, 2010. In the mass cell of "Kosh" penitentiary, where Nikol Pashinian was detained, two men in black and in masks attacked the journalist and started to beat him; when Nikol Pashinian called for help, the strangers left the ward. On November 16, 2010 Nikol Pashinian was lead to the isolation ward, while in the end of November - to "Artik" penitentiary. The Criminal Executive Department of RA Ministry of Justice explained the transfer of Nikol Pashinian to "Artik" penitentiary by "his numerous violations of detention conditions", as well as the conflicts with other prisoners. On December 30, 2010 the investigative bodies resolved not to institute criminal proceedings on the case for absence of corpus delicti (see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2010 on [www.ypc.am](http://www.ypc.am) in "Media Reports" section).

As General Procuracy noted, the ruling of RA General Prosecutor Aghvan Hovsepian on canceling the December 30, 2010 decision was stipulated by the fact that while examining the "Kosh" incident, the investigative bodies had not undertaken necessary investigative and criminal procedural measures, besides the case files were not duly worked up.

The criminal case on the assault of Nikol Pashinian at “Kosh” penitentiary was instituted upon Article 118 of RA Criminal Code (“Beating”). The preliminary investigation was entrusted to the investigative department of Aragatsotn region of the Chief Investigative Department of the RA Police. As of end-2011 there has been no information on the course of investigation.

On March 31 at the editorial office of “Haykakan Zhamanak” the meeting of the heads of several media and human rights organizations was held. The participants reached an agreement for holding permanent joint actions demanding to release Nikol Pashinian, Chief Editor of “Haykakan Zhamanak”.

On April 5 the media heads started the first action. Every day a certain media was sending a letter to Nikol Pashinian, which was also published and stored on the media’s website on the same day. Thus, the action participants wanted to verify whether the Chief Editor of “Haykakan Zhamanak” had received the correspondence addressed to him, and whether his response letters had been delivered.

On April 6 the heads of over 20 media addressed to the RA Minister of Justice Hrayr Tovmasian requesting a permission of visiting Nikol Pashinian.

On April 7 “Haykakan Zhamanak” informed that the European Court of Human Rights will consider three applications from Nikol Pashinian on a priority basis. This was notified by the ECHR Third Section President Josep Casadevall to the lawyer of Nikol Pashinian, Vahe Grigorian. The applications, dealing with his arrest, court litigations and conviction, were sent to the ECHR by Nikol Pashinian in 2010-2011.

On May 6 at “Artik” penitentiary the RA Administrative Court started hearing the suit of Nikol Pashinian versus “Kosh” penitentiary. The plaintiff demanded to lift the disciplinary penalty, imposed on him on November 16, 2010. Nikol Pashinian contested the November 16, 2010 decision of the “Kosh” administration on transferring him to the isolation ward. As of end-2011 the hearings on the case continued.

On May 27 Nikol Pashinian was pardoned and released. (The act on the amnesty was passed on the occasion of May 28 Republic Day by the RA National Assembly on May 26.)

**SINCE JANUARY 21** some of the national and Yerevan TV companies disappeared from the Armenian air. The changes were stipulated by the results of **licensing competitions in digital network**, held by the National Commission on Television and Radio, and released on December 16 and 23, 2010 (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2010 on [www.ypc.am](http://www.ypc.am) in “Media Reports” section*). **“ALM” TV channel**, which lost one of the competitions to “Yerevan” TV, stopped its broadcast. **TV5** was also dropped out of the broadcast spectrum. Unlike to his “CS Media City” holding colleagues, “ArmNews” and “Armenia” TV channels, it had not participated in the competitions at all. **“Hayrenik” TV** had not taken part in the competitions, either, and merged with “AR” TV channel. The latter obtained a license for broadcasting youth/educational/scientific programs in Yerevan (both of the TV companies belonged to the family of Hrant Vardanian, businessman, head of “Grand-Holding”).

A specific situation occurred with **“Shoghakat”**, the TV channel of Holy See Etchmiadzin, which had not applied to the competitions, as they did not provide for spiritual and cultural

profiles' licensing. Meanwhile, since January 21, "Shoghakat" began broadcasting on the frequency of "Ararat" cultural TV channel of the Public Television and Radio Company. As the Head of "Shoghakat" Manya Ghazarian explained, the broadcast on the frequency of "Ararat" was implemented within a one-month contract, concluded by "Shoghakat" and Public TV and Radio Company. On February 24 at the session of RA Government the decision to establish "Spiritual and Cultural Public TV Company" CJSC was rendered. The management of the state-owned shares of the company was entrusted to the Council of Public Television and Radio Company. Thus, the Government's decision became a legal basis for "Shoghakat" to broadcast on a public frequency.

**ON JANUARY 24** the international "**Human Rights Watch**" organization released its **annual report on human rights practices** in over 90 countries of the world in 2010.

In the report section, dealing with Armenia, the situation with media freedom was presented. The amendments to RA Law "On Television and Radio", adopted on June 10, 2010, reduced the number of available television stations, "Human Rights Watch" noted in particular. Besides, the amendments' provision as to existing broadcasters or those with at least three year experience receive preference in future licensing competitions, created a barrier for new broadcasters. "During a July 4-5 visit to Yerevan, US Secretary of State Hillary Clinton met President Serzh Sargsian, and separately with civil society leaders. Secretary Clinton discussed the US government's concerns that recent changes to the Law "On Television and Radio" could hinder freedom of expression," "Human Rights Watch" report stressed.

The "Media Freedom" section also told about "GALA" TV company of Gyumri, which reported in March 2010 that advertisers withdrew business under pressure from local officials. "Since 2007 "GALA" has been subject to apparently politically motivated court cases and harassment by state agencies, seemingly in retaliation for the station's regular coverage of opposition party activities", "Human Rights Watch" considered. Independent TV channel "A1+" remained off the air for an eight year, despite a June 2008 judgment of European Court of Human Rights that "Armenia had violated freedom of expression due to repeatedly arbitrarily denying the station a broadcast license", reaffirmed "Human Rights Watch".

Among other cases the "Lack of Accountability for Excessive Use of Force" section listed the incident of November 2010 with Nikol Pashinian, one of the opposition leaders, Chief Editor of "Haykakan Zhamanak" daily. The latter was sentenced for mass riots of March 1, 2008 in Yerevan: "Pashinian claimed two masked men attacked and beat him in Kosh prison; the government denied the allegation."

Another incident regarding an Armenian media representative was highlighted in "Freedom of Assembly" section: the detention of "Haykakan Zhamanak" correspondent Ani Gevorgian during an opposition rally on May 31, 2010 in Yerevan. "Amid local media outrage, police did not press charges against Ani Gevorgyan", the "Human Rights Watch" mentioned.

**ON JANUARY 26** in Strasbourg at the winter session of **Parliamentary Assembly of Council of Europe Resolution 1787(2001) "Implementation of Judgments of the European Court of Human Rights"** was approved. Due to the fact that a number of countries, including Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Serbia, fail to implement the rulings of the European Court of Human Rights (ECHR), Point 4 of the Resolution called these countries "to make the issue of non-compliance and

solutions to outstanding problems a priority". According to PACE, the main reason for this situation is the absence of internal mechanisms of control. Thus, the national parliaments were strongly urged "to introduce specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments".

It should be noted that on June 17, 2008 the ECHR recognized the refusals of granting "A1+" TV company with a broadcasting license to be a violation of Article 10 of the European Convention of Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas. This ruling is not fully fulfilled as of today.

**ON JANUARY 27** in Vienna at the session of the OSCE Permanent Council the US Ambassador to OSCE Ian Kelly delivered **the statement of the United States Mission to the OSCE on media freedom in Armenia**. The statement noted that the December 16, 2010 decision by National Commission on Television and Radio awarding 18 ten-year digital broadcast licenses "will shape Armenia's media environment for the next decade, a period encompassing the next two cycles of national elections for the Armenian parliament and president". By noting that the number of licenses awarded was less than the current number of broadcasters, the statement authors expressed a concern about the implications of the competition process on media pluralism.

The US Mission to the OSCE welcomed the formation of the working group on reforming the broadcast legislation and tasked to review the June 2010 amendments to RA Law "On Television and Radio"; at the same time, it had concerns about the pace of the review. The US Mission also remained concerned that "an audit of Armenia's TV and radio frequencies, which provides the technical basis for limiting the number of digital broadcasting licenses, has not been released".

Commending RA President Serzh Sargsian's statements on December 18, 2010 committing the authorities to "display utmost tolerance toward dissent" and remarking that "European democracy and rule of law are demands" of Armenian society, the US Mission mentioned that "independent, pluralistic media in which diverse opinions can be freely discussed is a critical component for a prosperous democracy".

All OSCE participating States, as well as Armenia, have undertaken commitments to respect and protect human rights and fundamental freedoms, including the freedom of expression and media freedom, the statement emphasized.

"We urge the government of Armenia to amend the Law "On Television and Radio" and to conduct the digital switchover process in a manner that promotes media pluralism in Armenia and expands the Armenian public's access to information from diverse sources. In order to ensure Armenian legislation conforms to international standards and OSCE commitments, we urge the government of Armenia to release the frequency audit and further amend the Law "On Television and Radio" by taking into account the recommendations of the OSCE, including its Representative on Freedom of the Media, and the Council of Europe. We further urge Armenian authorities to liberalize the licensing regime for other telecommunications media, including for providers of Internet, satellite and mobile phone networks so that media can easily deliver content to Armenian citizens. We also urge the government to consider allowing all existing broadcast license holders and applicants for new broadcast licenses to utilize unallocated analog frequencies until the cessation of analog broadcasting in Armenia," the statement of US Mission to OSCE underlined.



## FEBRUARY 2011

**ON FEBRUARY 2** RA Human Rights Defender *Armen Harutiunian* presented **annual report on the activities of the Defender and the human rights and fundamental freedoms violations in Armenia in 2010**. In the section on freedom of expression, ombudsman reminded that since the 2003 adoption of the RA Law “On Freedom of Information” and as of today, the Government has not elaborated any bylaws, stipulated by Articles 5 and 10. This regards the order of granting information by state and local self-government bodies, state organizations and offices, as well as the procedure for registering, classifying and preserving information.

Considering the RA Law “On Television and Radio”, the report stressed that the main issue of the broadcast legislation were the blurred and ambiguous provisions on the procedure, conditions and requirements for licensing the TV and radio companies. This mainly concerned: the issues of implementing the business programs, presented in the licensing applications, the mechanisms of assessing the applicants’ financial capacities, the verification of facts, brought in the applications, the ability of applicants to ensure pluralism on air, etc. The report highlighted the necessity of legislative initiatives, aiming to guarantee the social-political diversity of the National Commission on Television and Radio, the inclusiveness of NGOs and professional organizations in NCTR, as well as the enhancement of the independence of the Council of Public Television and Radio Company.

The Human Rights Defender’s annual report told about the establishment of a working group in 2010 on reforming the broadcast legislation that regulates the process of switching from analogue to digital broadcasting in Armenia. The main task of the group is the elaboration of amendments to the Law “On Television and Radio”, particularly dealing with the introduction of a legal basis for private multiplex operators, clarification of licensing procedures, enhancement of NCTR and PTRC Council independence, etc.

**ON FEBRUARY 2** an incident occurred between *Grisha Balasanian*, correspondent of “**Hetq**” newspaper (the publication of “Investigative Journalists” NGO), and Ruben Hayrapetian, RA National Assembly MP, Chairman of the Football Federation of Armenia. Grisha Balasanian had called Ruben Hayrapetian on his mobile phone and asked him to answer to some questions. In his reply Ruben Hayrapetian called him “ignoramus”, telling to refer to the press-service of the Federation. Nevertheless, “Hetq” correspondent did not inquire about information on football, but the case versus “Haykakan Zhamanak”, where Ruben Hayrapetian was one of the plaintiffs (see above). Thus, Grisha Balasanian made a second call. Ruben Hayrapetian asked whether the journalist has a recorder on. Getting an affirmative reply, the MP started to swear at Grisha Balasanian.

On February 3 “Hetq” addressed to the RA General Prosecutor Aghvan Hovsepian with a communication on a crime (the same message was stored on “Hetq” website). The conduct of Ruben Hayrapetian was assessed by “Hetq” as impeding the legitimate professional activities of the journalist. The record of the telephone communications between Grisha Balasanian and Ruben Hayrapetian was enclosed to the address to the Procuracy.

The piece, “MP Swore at the Journalist”, published in “Azg” daily on February 3, 2011, dealt with the incident of “Hetq” correspondent and noted that was is not the first case when Ruben Hayrapetian demonstrated rude manners: he is known for his disrespectful

attitude not only towards journalists but also towards his subordinates; sometimes he even slaps them. Reminding about the case with the former Yerevan Mayor Gagik Beglarian, dismissed of his office for assaulting the representative of the RA President's Office, "Azg" presumed that if tomorrow Ruben Hayrapetian calls "ignoramus" and swears at the representative of the President's Office, "the tide will naturally turn". "The authorities will declare that all are equal before the law and will punish the MP. However, unless it comes to the presidential attendants, for the strong, the weak are always guilty," concluded "Azg".

On February 4 "Hetq" informed on its web site that it had sent a letter and the telephone communications record to Serzh Sargsian, RA President and Chairman of Republican Party of Armenia. As Ruben Hayrapetian is a member of the Republican Party Council, "Hetq" solicited the President of Armenia to consider the MP's conduct at the session of the Council and "to take necessary measures, for Ruben Hayrapetian does not feel unpunished".

On February 27 "Hetq" received the decision of RA Special Investigative Service, informing that the criminal proceedings versus Ruben Hayrapetian on Article 164 of RA Criminal Code ("Impeding the legitimate professional activities of a journalist") would not be instituted for absence of corpus delicti. The decision, signed by investigator V.K.Mkrtchian, particularly, stated the explanations of Ruben Hayrapetian, who did not want to talk with the journalist, pleading "bad mood and health problems". The second call of the journalist "outraged" the MP, and "he used indecent expressions". Further, Ruben Hayrapetian said that he had not aimed to and he had not impeded the professional activities of the journalist. During all press conferences, interviews, the MP personally or via his press secretary has answered to every question, providing information the journalists were interested in, stressed the MP. Similar explanations were given by Tigran Israelian, Press Secretary of Chairman of the Football Federation of Armenia.

On March 1 Grisha Balasarian filed a suit versus Ruben Hayrapetian at the court of general jurisdiction of Avan and Nor Nork administrative districts of Yerevan. The journalist demanded to oblige the MP to present apologies, pay off a compensation of 1 million AMD (more than \$ 2,700), as well as cover the court expenses. The suit on protecting the honor, dignity, business reputation and compensating the moral damage was grounded by the RA Constitution provisions, international commitments of Armenia and case law of the European Court on Human Rights.

At the hearings that started on April 27 the parties presented their arguments whether the telephone records constitute interference in private life, and whether the conversation between the journalist and the deputy can be qualified as violation of Article 1087.1 of RA Civil Code ("Order and conditions of compensation of damage to the honor, dignity or business reputation").

At the session of June 7 the court revoked the suit as baseless - "in view of absence of materials norms and proofs". According to Grisha Balasarian, the court sought to reduce the incident between the MP and the journalist to an interpersonal conflict, which was wrong, as he was accomplishing his professional duties. Besides, the reference to "absence of proofs", while having the record of the telephone conversations, also raises confusion. Grisha Balasarian noted that intends to appeal the judgment.

On October 12 RA Civil Court of Appeal revoked the application of "Hetq" correspondent. Grisha Balasarian had contested the ruling at the RA Court of Cassation, which also revoked the complaint on December 7.

**ON FEBRUARY 3 the founder of “A1+” TV company, “Meltex” LLC**, addressed the RA Administrative Court demanding to bind the seven members of **the National Commission on Television and Radio (NCTR)** to reply to its’ inquiries. On January 17 the “A1+” founder had submitted letters to all NCTR members - except for the Chairman Grigor Amalian - Zhirair Dadasian, Koryun Arakelian, Aram Melkonian, Simavon Andreasian, Armen Mkrtchian, Ara Tadevosian and Hayk Kotanian. The “A1+” founder requested each NCTR member to answer eight questions on how they had examined the applications of the founders of “A1+” and “ArmNews” TV companies, submitted for running in the digital broadcast licensing competition No.11 (on December 16, 2010 “ArmNews” became the winner). On January 21 NCTR informed that all the seven members believed that the earlier correspondence between “Meltex” and Grigor Amalian contained an exhaustive reply to all the questions raised by “A1+”. Meanwhile, the “A1+” founder believed that this fact did not exempt each of the NCTR members from answering to the requests, and therefore had filed the court. The suit was taken into consideration, but it was later on withdrawn by plaintiff since the court had revoked the petition of “Meltex” on examining the case by a compact procedure.

On February 17 at the press conference of “A1+” TV company Head Mesrop Movsesian and “A1+” attorneys Tigran Ter-Yesayan and Alexander Sahakyan it was announced that the TV company would contest the results of competition No.11 at court. The representatives of “A1+” noted that proceeding from the analysis of the competition package of the winner, “ArmNews” CJSC, they have revealed a number of discrepancies in the “ArmNews” application, which were either not paid attention to or deliberately neglected by NCTR. In particular, the single supporting document on the financial assistance to the business program of “ArmNews” is the letter of guarantee of “Ameriabank”. The letter stressed the readiness of “Ameriabank” to provide a loan to “ArmNews” LLC, while the founder of the TV channel is “ArmNews” CJSC. Besides, “A1+” representatives presented some questionable information about the TV company’s employees, mentioned in “ArmNews” application. According to “A1+”, NCTR has considered and assessed the applications in a subjective and selective manner: it has detected the shortcomings of “Meltex” application, not noticing the faults in the application of “Meltex” rival.

Meanwhile, since February 17 “Aravot” daily had started articles series “These Are the Proposals of the Winners (...)”, which analyzed the applications of the digital broadcast licensing competitions winners, announced by the National Commission on Television and Radio in December 2010. The applications’ copies were provided by National Commission on the request of Anna Israelian, the series author and “Aravot” observer. Within almost two months - the last article from the series was published on April 7 - “Aravot” presented the applications of the winners of 21 from the 25 competitions (four of them were conducted for rebroadcasters). The pieces dealt with application of the winner of competition No.11, founder of “ArmNews” TV channel, (*“Aravot”, March 25 and 29, 2011*) the author had highlighted “numerous shortcomings and unconformities”. Particularly, many contracts, concluded between “ArmNews” and private persons, claimed as correspondents of the TV channel, were not attested with a signature and a seal. The pieces were attended by the photocopies of some of the contracts. Besides, in the first article from the series dealing with the winner of competition No.1 - founder of “Armenia” TV channel (*“Aravot”, February 17, 2011*), the author had mentioned about the presence of the same documents in applications of “ArmNews” and “Armenia”. This, according to “Aravot”, proved the well-known fact - the companies have the same assets.

On February 21 founder of “A1+”, “Meltex” LLC, addressed a suit to RA Administrative Court versus National Commission on Television and Radio, contesting the results of competition No.11 on digital broadcast licensing. The application of this competition’s winner, founder of “ArmNews”, was assessed by NCTR members by 44 points, while the one of “A1+” - by only 2 points. The NCTR December 16, 2010 decision on competition No.11 noted that the financial means, claimed by “Meltex” LLC, “cannot be sufficient, given that the significant part of the supporting documents on the financial assistance (...) 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 (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2010 on [www.ypc.am](http://www.ypc.am) in “Media Reports” section*). Assessing this reasoning as forced and biased, “Meltex” addressed the court demanding to restore its violated rights and nullify the NCTR decision on competition No.11.

At the preliminary hearings that started on May 11, the court secured the plaintiff’s motion on impleading “ArmNews” CJSC, founder of “ArmNews”, as a third party in the case. However, later on “ArmNews” denied to participate in the court litigation.

On June 10 the Resolution CM/ResDH(2011)39 on execution of the June 17, 2008 judgment of the European Court of Human Rights on the case of “Meltex” LLC versus Republic of Armenia was released. (The refusals to grant a broadcast license to “Meltex” LLC were recognized by ECHR to be a violation of Article 10 of the European Convention on Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas.) The Resolution was adopted by the Committee of Ministers on June 8, 2011 at the 1115th Meeting of the Ministers’ Deputies. The document stressed that the Committee of Ministers, having examined the measures taken by the respondent state had decided to close the examination of the case of “A1+” TV company founder, “Meltex” LLC.

Meanwhile, according to the “A1+” head Mesrop Movsesian, the ECHR ruling was not implemented: in fact, except for paying the material compensation, Armenia had to undertake open and transparent broadcast licensing competition. Nonetheless, these terms were not ensured during the digital broadcast licensing competitions held by NCTR in 2010, thereby the founder of “A1+” appealed against the NCTR decision on competition No.11, emphasized Mesrop Movsesian.

On June 27 Yerevan Press Club, Internews Media Support public organization, Committee to Protect Freedom of Expression, “Asparez” Journalists’ Club of Gyumri, Media Diversity Institute-Armenia, “Investigative Journalists” NGO, “Journalists for the Future” NGO, Vanadzor Press Club, Vanadzor Branch of Helsinki Citizen’s Assembly, Helsinki Committee of Armenia, Transparency International Anti-Corruption Center, Open Society Foundations-Armenia, “Krtutyuan Asparez” NGO, “Menk Plus” NGO, “Shirak Kentron” NGO released a statement, which noted that “the Committee of Ministers rendered a decision on the closure of the TV company’s case having neither sufficient legal nor other grounds for it”. “We regret to state that decisions like the one passed by the CoE Committee of Ministers free the hands of the authorities, justify their interventions against freedom of expression, reduce the performance of the efforts made by many local and international organizations towards the promotion of democratic values in the country. We regard this Resolution as running counter to the aims for which the structures, engaged in the supervision of execution of the European Court of Human Rights decisions, are formed. We call upon the CoE Committee of Ministers to implement the procedures under its competence in line with the priorities and values proclaimed by the Council of Europe”, the

statement of 15 NGOs stressed particularly. The statement had an annex, which listed the facts and the circumstances, providing evidence that the Armenian authorities did not take any measures to restore the violated right of “A1+” to freely impart information and ideas: “Moreover, the comparison of these facts and circumstances admit that “A1+” has been persistently restricted to return on air.”

On July 20 Yerevan Press Club presented its study, “Expert Analysis of the Broadcast Licensing Competition Results of December 2010”. In March-June, 2011 the expert group, established by YPC, has analyzed the organization, holding and summing up of the 25 digital broadcast licensing competitions, the competition bids and the results. The YPC working group included experts from different fields, which sought to identify how the broadcast legislation and licensing competitions held in 2010 did enhance the TV market, pluralism and diversity of the Armenian TV air, as well as to determine the level of impartiality and objectivity of the regulatory body, National Commission on Television and Radio, while determining the winners.

The experts, in particular, came to the following conclusions:

- Amendments made to the RA Law “On Television and Radio” on June 10, 2010 did not ensure the development of the TV market, the holding of open, fair and transparent competitions, the pluralism and diversity of TV air.
- The Law articles related to licensing and the competitions held by the NCTR based on those articles, did not rule out the possibility of subjective decision-making. This was particularly clear during the summarization of competition No.11, when the bid of the founder of “A1+” TV company was given a score of only 2.
- While summarizing the results of the competitions, NCTR has not shown a uniform approach in forming justifications. For the four competitions, which had two participants, NCTR has provided justifications regarding the decisions on determining the winner. Whereas, in cases when the competition had one participant, all 21 NCTR decisions on determining the winners have the same standard formulation: “(...) after reviewing the submitted bid and attached documents it has become clear that they meet the requirements established by RA legislation.” According to the expert group, this does not meet the justification standards required by Part 3 of Article 49 of the RA Law “On Television and Radio”.
- To 27 out of the 29 competition bids, members of NCTR gave similar scores. Thus, similar scores were given to television companies with long-term experience that have much less technical, human resource, or financial issues, and newly established companies that have nothing but good intentions.
- NCTR had not specified the mandatory and optional lists of financial documentation to be presented in the bids. As a result, the applications were composed in “freestyle”; financial documents, agreements, etc. were not subject to any standardization. This made them almost impossible to compare. In addition, financial documents were often developed carelessly, and contained arithmetical and factual errors.
- The Procedure for Conducting Licensing Competitions, approved by NCTR, only provides that the bid should contain information on the technical means and equipment to be used. This document does not contain clear criteria for technical assessment of the bid. As a result, NCTR members have assessed the bids’ sections on technical means as they

wish.

Pursuant to the abovementioned, the expert group made the following recommendations:

- Amending the RA Law “On Television and Radio” so that the ratings-based voting is guided by separate criteria provided by legislation, instead of giving one score to the entire bid.
- Providing in the Law that “professional background of the staff” criterion is assessed taking into consideration the professionalism of the management staff and clarity of organizational structure. This is necessary to avoid repetition of facts recorded during the last competition process, when Russian show business stars, actors of different theatres, and people living abroad were presented in the bids as employees of Armenian television companies.
- Removing “capacity to promote pluralism” from the assessment criteria provided by the Law, and replacing it with “conformity of program policy with orientation of the competition”.
- Adding a new criterion in the Law, according to which, while assessing the bid of a currently active television company, NCTR will be obligated to take into consideration the extent to which the bidder has kept promises made in past license terms and has implemented license requirements.
- Establishing one format for presenting in the bids the volume of domestic and own programming.
- Setting forth a provision in the Law that will oblige NCTR to post competition bids with all attached documents on its website immediately after opening the documents for the conduction of public discussions.
- Establishing a list of mandatory and optional financial documents that bidders are to provide within the NCTR Procedure for Conducting Licensing Competitions, as well as clear criteria for assessment of the technical component of the bid.

The Expert Analysis was attended by the Comment of “Article 19” international organization (*the full text of the “Expert Analysis...” is available at [www.ypc.am](http://www.ypc.am), in “Studies” section*).

At the preliminary hearings on the suit of “A1+” founder versus NCTR that lasted three months (until August 11), the plaintiff had presented a supplement to the suit, which listed the contradictions as contained in the bid of “ArmNews”, and which were ignored by the NCTR while determining the competition winner.

The case was examined in essence only during one session of September 16.

On October 3 RA Administrative Court released the decision. The suit of “A1+” was revoked by the justification that the competition was held in compliance with the legislation, therefore the rights of the plaintiff were not violated.

On November 2 “Meltex” LLC contested this ruling at RA Administrative Court of Appeal.

As of end-2011 the hearings at the second court jurisdiction had not started.

**ON FEBRUARY 4** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of “Arrhythmic-Cardiological Center of Armenia” LLC (ACCA) versus **online news agency News.am**. The reason for the suit became the piece “The Patient with a Diseased Heart Was “Puffed” at the Arrhythmic-Cardiological Center and Has Been Implanted with Another Device”, stored on News.am on November 23, 2010. The article stated the story of a reader H.K., who alleged that he had been cheated at the Cardiological Center; the doctors had implanted an electric cardiostimulator, cheaper and with a shorter warranty period than the one he had been promised before the surgery. The plaintiff demanded to refute the information that discredits his honor, dignity and business reputation, as well as to compensate the moral loss in the amount of 2 million AMD (about \$ 5,500).

At the session of February 4 the court noted that the respondent in the case must not be News.am, but its founder, “Media Consult” LLC, which is a legal entity. Therefore, the plaintiff was provided with some time to rectify the suit. Later the litigation was transferred to the court of general jurisdiction of Ajapnyak and Davitashen administrative districts of Yerevan and started on October 7, 2011. As of end-2011 the hearings continued.

The Arrhythmic-Cardiological Center of Armenia filed another two suits at the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan, but this time against **“Aravot” daily founder, “Aravot Oratert” LLC**.

One of the suits regarded the abovementioned story of reader H.K., published in “Aravot” on November 13, 2010 and titled “Paying for 10 Years of Life, Got - Seven”. The plaintiff presented the same claims to “Aravot” founder: to issue a refutation, to compensate the moral loss of 2 million AMD, as well as the court expenses of 300,000 AMD. On October 4, 2011 “Aravot” daily published and stored on its website, www.aravot.am, the refutation and the reply of the medical center. On November 3 the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan approved the amicable agreement between the parties.

The second suit of ACCA versus “Aravot” founder was grounded by a letter of a reader from Kapan, K.A., published by the daily on December 1, 2010 and titled “And What About the Hippocratic Oath?”. In the letter K.A. complained about one of the ACCA doctors. Again, in this case the ACCA demanded to refute the information, pay off a moral loss of 2 million AMD, as well as the court costs of 300,000 AMD. The hearings on the case started at court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan on February 4, 2011 and continued as of end-2011.

Finally, another suit was filed at court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan versus **the founder of “Aravot” daily, “Aravot Oratert” LLC**. The plaintiff of the suit was Murad Asrian, member of RA Chamber of Advocates, who protected the interest of the Arrhythmic-Cardiological Center of Armenia. The subject of the dispute became the article “‘Aravot’ and News.am are Sued for the Same Thing”, published in “Aravot” on February 5. The article dealt with the disputes of ACCA against News.am and “Aravot”. The piece particularly criticized ACCA’s attorney Murad Asrian. The latter had mentioned in the suit versus News.am not the founder of the online agency (“Media Consult” LLC), but the agency per se, which as noted above was not a legal person. On April 28, after Murad Asrian had addressed the court, “Aravot” published his comments, where he explained that he had attempted to find out from

News.am who was its founder, but did not get any response. Thus, for filing the court before the term prescribed by the law would expire, he had to mention the improper respondent. The hearings on the case had to start on May 31, but were postponed upon Murad Asrian's petition. On June 10 "Aravot" published a refutation on its article of February 5. The refutation stressed that the piece was one-sided and did not present Murad Asrian's viewpoint. Moreover, the opinion expressed by the article's author discredited the honor, dignity and business reputation of the advocate. The daily brought apologies for this. On June 28 the court approved the amicable agreement between Murad Asrian and "Aravot" founder.

**ON FEBRUARY 15** the US-based **Committee to Protect Journalists (CPJ)** publicized its **annual report on attacks on press** in more than 100 countries of the world **in 2010**.

The report section on Europe and Central Asia deals with the censored Internet in Russia, Kazakhstan and Belarus. CPJ particularly noted that event-specific blocking of selected Internet sources has become a common tool for many countries of the Europe and Central Asia. Over the past four years such blockings were documented in Kyrgyzstan, Georgia, Armenia, Russia, Belarus, Azerbaijan, and Kazakhstan.

The report section on Armenia, stressed that "self-censorship remained widespread in the media, as lawlessness curbed the activities of journalists, human rights defenders, and opposition leaders". The most drastic example became the June 2010 amendments to the RA Law "On Television and Radio" that tightened control over broadcast media: "The government tried to deflect attention from the restrictive amendments by embedding them into a package of measures meant to move radio and television stations from analog to digital signals." According to CPJ, "the RA President Serzh Sargsian ignored domestic and international protests over the restrictions, which are seen as benefiting his Republican Party as it approaches parliamentary elections set for 2012". Besides, the report mentioned that the amendments provided the government legal cover to keep the popular "A1+" TV company off the air. The authorities have essentially ignored the June 2008 ruling by the European Court of Human Rights on the case of "A1+", recognizing the refusals to grant a broadcast license to the TV company a violation of Article 10 of the European Convention, i.e., of the right of the applicant to freely impart information and ideas. The report also reminded about "GALA" TV company, subjected to governmental harassments since 2007.

As the sole positive legislative change CPJ noted the May 2010 amendments package, decriminalizing libel and defamation.

The report listed the incidents occurred with media representatives in 2010: with free-lance journalist Gagik Shamshian at the RA Procuracy building on February 24; detention of "Haykakan Zhamanak" correspondents Ani Gevorgian, Syuzanna Poghosian, and correspondent of "Hayk" newspaper Lilit Tadevosian during the opposition rally on May 31 in Yerevan.

**ON FEBRUARY 17** court of general jurisdiction of Shirak region released the judgment on the litigation between Gyumri Municipality and **founder of "GALA" TV company, "CHAP" LLC**, regarding the right of the "GALA" to use the city TV tower. The litigation started on January 14, 2009 in line with the October 31, 2008 ruling of the RA Court of Cassation, which abolished 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 respondent 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 Center visited “GALA” for examining the TV tower; the court hearings resumed on June 25, 2010 (see details in “On Freedom of Speech in Armenia” Yerevan Press Club reports for 2008-2010 on [www.ypc.am](http://www.ypc.am) in “Media Reports” section).

At the session of February 17 the court obliged the “GALA” founder to stop using the city TV tower and to disassemble the equipment installed on it within a month.

“GALA” considered this decision as “obviously biased”, as another proof of “the increasing campaign of the authorities versus independent media”. “GALA” affirmed its readiness to strive for freedom of expression and for its right to provide the public with objective information.

In the statement released on February 18 by Yerevan Press Club, Committee to Protect Freedom of Expression and “Asparez” Journalists Club of Gyumri the court ruling was assessed as a “continuation of attempts to exert pressure on the TV company, initiated since 2007 by different power agencies, which creates new obstacles for freedom of expression and media”. Journalistic NGOs called the respective agencies to stop the groundless pursuit versus “GALA”.

“GALA” founder appealed the decision of the court of first jurisdiction at Civil Court of Appeal, which upheld it on April 26. In its turn, on July 1 RA Court of Cassation revoked the complaint.

On July 15 - pursuant to the ruling of Court of Cassation - the Municipality of Gyumri addressed the RA Service of Compulsory Execution of Judicial Acts demanding to oblige “CHAP” LLC to disassemble the equipment from the city TV tower.

On July 18 Yerevan Press Club, Committee to Protect Freedom of Expression, Internews Media Support NGO, Media Diversity Institute-Armenia released a statement in which the ruling of the Court of Cassation was considered as a logical continuation of the campaign versus “GALA”. It takes note that this ruling was rendered after the Resolution of the CoE Committee of Ministers of June 8, 2011 on execution of the June 17, 2008 judgment of the European Court of Human Rights on the case of “Meltex” LLC, “A1+” TV founder, versus Republic of Armenia (see above). The decision of the international institution on closure of the examination of the “A1+” case, “actually, freed the hands of the Armenian authorities in order to shut the mouths of the other unwanted media, like ‘GALA’”, the statement stressed. The journalistic organizations announced that they will continue to support the Gyumri TV company and called the authorities “to refrain from infringements upon freedom of speech and pluralism, specifically in the eve of the upcoming national elections when establishing a favorable environment in the media field is of extreme importance”.

On October 25 the broadcast of “GALA” TV was stopped for a day, due to the shift of TV towers. On October 26 the TV company resumed its air.

In November the founder of “GALA” addressed the European Court of Human Rights with a suit against the Republic of Armenia.

**ON FEBRUARY 25** the court of general jurisdiction of Kentron and Nork-Marash

administrative districts of Yerevan started the hearings on 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 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 respondent as compensation for libel and insult, as well as compensate the court expenses of 3 million AMD (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2010 on www.ypc.am in “Media Reports” section*).

At the court session of February 25 the founder of “Zhamanak” suggested that the plaintiffs develop the text of the refutation, expressing its readiness to publish it. The refutation appeared in “Zhamanak” on March 10 and was attended by an editorial comment. This form of presentation did not satisfy the plaintiffs, and the parties did not come to an agreement.

At the session of March 23 the plaintiffs presented documents as a ground for their demands on compensating the moral damage and the court expenses.

The hearings on the case lasted almost two months and ended on April 20. It was announced that the court ruling would be released on May 5. Meanwhile, this did not happen on the appointed date: the court resolved to start a new consideration of the case due to the necessity of additional examination of presented facts.

The reconsideration of the suit started on May 20. The plaintiffs presented the court a document, grounding their expenses made for attorney fees.

The next session of May 23 was held in a blitz mode - less than a minute. According to the attorney of “Zhamanak” founder Nikolay Baghdasarian, the judge had started the hearings earlier of the time convened and ended them pleading on the absence of the respondent, announcing in the meantime that the decision on the case will be released on June 6. Meanwhile, as the attorney assures, he had arrived to court beforehand and was waiting for the time of the session to come - to enter the courtroom.

On June 6 the court resolved to secure the suit partially. The demand of the plaintiffs to compensate the court expenses of 3 million AMD was revoked. “Zhamanak” was bound to refute the information, damaging the honor, dignity and business reputation of Bella and Sedrak Kocharians, as well as pay off the plaintiffs 3 million AMD as compensation for libel and insult.

“Zhamanak” founder appealed this judgment. The hearings on the complaint started on September 29 at RA Civil Court of Appeal. At the session of October 11 the Court of Appeal revoked the complaint, finding no grounds for reconsideration of the ruling of the general jurisdiction court.

“Zhamanak” founder addressed the RA Court of Cassation, which revoked the suit on December 7.

## **MARCH 2011**

**ON MARCH 2 Yerevan Press Club, Internews Media Support public organization, Committee to Protect Freedom of Expression, “Asparez” Journalists Club, Media Diversity Institute-Armenia** made a statement regarding the increasing number of lawsuits versus Armenian media.

“The increasing number of lawsuits versus Armenian media demanding to refute information, discrediting the honor, dignity, business reputation of the plaintiffs, and to compensate their moral damage, raises utmost concern. The process of considering these suits by courts affirm the most pessimistic assumptions - the drastic introduction in 2010 of the moral damage institute, without taking into account the realities, will undermine the existence of many media. Granting the courts with competence to arbitrarily define the real public feedback to a piece and the size of the damage, to ignore the public significance of the disseminated information and the financial situation of the respondent are actually prescribed by the RA Civil Code amendments. All this was being persistently pointed out by the media community during the discussion of the amendments to the Code. Thus, the restricted freedom of expression, as it is nowadays in Armenia, is even more curtailed.

As the practice manifests, the legislative amendments, adopted last year, despite the pro arguments, do not serve as means of protecting the honor and dignity of the overwhelming majority of Armenian citizens in any way. “The power” of law is enjoyed only by “the powers that be” - representatives of the political and business elite, who get square with unwanted media and journalists. Sticking to their habit of violating the rights of their co-citizens and feeling themselves inviolable, these figures, who naturally raise public interest, neglect the accepted in civilized world principle of tolerance towards media. Furthermore, the last precedents demonstrate that courts are ready to indulge the unfolded “crusade” versus journalists.

We do not assume at all that Armenian media are sinless and do not give ground for serious pretensions. Nevertheless, struggling against the drawbacks of our journalism by shutting its mouth - and this is how the end of the financial pressure, being exerted today, promises to be - means to devaluate the role of media in the fight against many public ailments, and first of all, with different forms of corruption, and its most dangerous form - state capture.

We urge the RA National Assembly to reconsider in short term the provisions of RA Civil Code on moral damage compensation, to work out relevant comments, setting forth rational and grounded regulations for the compensation size, thus ensuring follow-up of specific circumstances on each case.

We call upon the courts to not be on the bit of powerful plaintiffs, their incessant ambitions and appetite, by limiting in the majority of cases with the right of reply and refutation, assigned by the law.

We call the media to develop media self-regulation and public accountability mechanisms, and the Armenian citizens - to be more active in using these non-judicial means of protecting their information rights”, the statement of the four journalistic organizations noted.

**ON MARCH 10 four journalists and producers from Finland, Lithuania and Estonia** were refused of entry visas to Armenia upon their arrival to “Zvartnots” International Airport

of Yerevan. The journalists were led to the transit zone and left Yerevan on the next day.

The March 11 press release, released by Lithuanian TV Komanda company, informed that the aim of the visit to Armenia of the international filmmakers was the work on a “documentary movie on the difficult path of conflict resolution in war-affected Caucasus”. In frames of this project it was planned to produce face-to-face interviews with officials and peacemakers under the general theme of “Armenia: Past, Present and Future” on the dispatch by “YLE” National Finnish Broadcasting Company. This production was to be also used in the documentary on the tragic events in Khodzaly during the Armenian-Azerbaijani warfare, the press release noted. According to Andrius Brokas, Executive Co-Producer of the project, who communicated with his colleagues in the Yerevan airport from Helsinki, the journalists were told that their entry to Armenia was unwanted. The press release stressed that the incident in Yerevan airport occurred ahead of the visit to the region by the OSCE Acting Chairman, Minister of Foreign Affairs of Lithuania Audronius Azubalis.

Many Armenian media published the explanations of the Press Secretary of RA Ministry of Foreign Affairs Tigran Balayan, informing that issuing visas on the Armenian border is not the competence of the MFA. Other official sources, including state agencies engaged delivering visas on the border, have not commented the incident anyhow.

**ON MARCH 25** the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of Tigran Arzakantsian, RA National Assembly MP, member of “Republican Party of Armenia” faction, versus **founder and publisher of “Yerkir” daily, “Yerkir’ Editorial Office” LLC**. The reason of the suit became the piece about Tigran Arzakantsian, published in “Yerkir” on January 13, 2011 within the column “131 Faces and the Masks” (the given cycle presents the Armenian MPs in alphabetical order). Tigran Arzakantsian had sent a refutation text to the newspaper, and since it was not published, he went to law. The plaintiff demanded to refute the information discrediting his honor and dignity, oblige the daily to publish the court decision on the case, exact 3 million AMD (about \$ 8,200) from the respondent as a compensation for libel and insult, as well as compensate the court expenses of 568,000 AMD.

On March 26 “Yerkir”, upon its own initiative, stored an editorial on the front page, entitled “Refutation”. The daily refuted the words and expressions that insulted the MP. The editorial ended with a question: “Did you believe?”

The decision on the case was released on June 8. The court resolved to secure the suit partially: the “Yerkir” founder should publish in the newspaper the operative part of the judgment, pay 200,000 AMD as a compensation for insult, as well as pay off the court expenses of 88,000 AMD. The court qualified as an insult the word “cub”, which was employed in the contested piece with reference to the former RA Prime-Minister Hrant Bagratian. Commenting the court ruling, Bagrat Yesayan, Chief Editor of “Yerkir”, noted that in several pieces the daily has repeatedly (particularly, in the issues of March 26 and April 23, 2011) quoted the written reply of Hrant Bagratian, who told that he had not said anything like that about Tigran Arzakantsian. However, according to “Yerkir” head, this fact was not acknowledged sufficient: the court considered that before publishing the contested article, the daily should have checked and precised the information cited in it.

The June 27 expert conclusion of the Council on Information Disputes noted that the cycle “131 Faces and the Masks” is of public interest as it presents the RA NA MPs, their biographies, work duties and financial situation. The piece on Tigran Arzakantsian had a humorous nature assuming some exaggerations, which presumed a higher level of

protection of freedom of speech, the Council noted. The expressions of the piece, contested by the NA deputy and criticizing him, are overall value judgments made by the piece author (which are not subject to prove pursuant to the case law of European Court of Human Rights), or are factual data based on expressions, interviews of Tigran Arzakantsian, pieces and information about him from other media, the Council mentioned. As regards one of the article's expressions, which quotes the former RA Prime Minister Hrant Bagratian and contains the offensive word "cub", the Council found that the fact, whether the journalist had indicated the source from which he had picked up the quotation, is the most essential. In this case this was not done. Meanwhile, the plaintiff had presented the written statement of Hrant Bagratian who denied telling anything like this. The expert conclusion noted that this fact could permit to assert about a deliberate humiliation of dignity, which is one of the components of the "insult" notion. At the same time, the Council emphasized that the publication of above-mentioned statement of Hrant Bagratian in "Yerkir" daily cannot be considered as a due refutation, as it does not correspond to legislative requirements prescribed for refutation. Thus, the Council on Information Disputes concluded that the majority of the argued expressions of the article are value judgments or are based on factual data, which are not subject for court proceedings. The Council emphasizes that the court intervention has to be commensurate to the damage caused, should take into account the factual background of the case, the financial situation of the media and the ECHR case law. Therefore, the compensation of 200,000 AMD defined by court for the offensive word "cub" is disproportionate, as well as the initial demand of the plaintiff of 3 million AMD. The court could have limited by obliging the newspaper to publish an apology for the expression with reference to Hrant Bagratian. As for the court expenses, the Council found that the amount determined is reasonable.

Meanwhile, both parties appealed the ruling of court of first jurisdiction: the plaintiff demanded to abolish it fully, the respondent - to call off the part regarding the insult. On August 24 RA Civil Court of Appeal upheld the ruling of the court of general jurisdiction. In its turn, on October 19 the Court of Cassation revoked the two complaints.

## **APRIL 2011**

**ON APRIL 1 RA Human Rights Defender *Karen Andreasian*** addressed the Armenian judges calling on them to be guided by the principles and case law of the European Court of Human Rights during the examination of defamation lawsuits.

"As a result of the amendments made to the RA Criminal Code on May 18, 2010 defamation and insult were decriminalized, while the order and terms of compensation of damages caused by insulting or defamatory statements to honor, dignity and business reputation of a person were prescribed in the RA Civil Code. These reforms were welcomed by Dunja Mijatovic, OSCE Representative on Freedom of the Media, who considered it as a good model of solution of the issue; this was also mentioned in the issue paper of Thomas Hammarberg, CoE Commissioner for Human Rights.

However, in the light of the purpose of envisaging legal provisions on the protection of honor, dignity and business reputation of a person, we should assign particular importance to their strict interpretation and proper implementation. Consequently, I would like to once more highlight some principal approaches deriving from the practice of the European Court of Human Rights, which need to be applied in the judicial practice of the Republic of Armenia.

- "Politicians should be expected to be more tolerant of media criticism. The limits of

acceptable criticism are much wider as regards a politician as such than as regards a private individual.”

- “In case of freedom of expression abuse, the compensation defined by the court should be proportionate to the harm done to the reputation of the person.”

- “Not only are the information or ideas favorably received or regarded as inoffensive or as a matter of indifference protected, but also those that offend, shock or disturb.”

- “A journalist may resort to a degree of exaggeration or even provocation.”

- “Not only is the substance of the ideas and information expressed protected but also the form in which they are conveyed.”

- “Unlike factual data, it is unacceptable to require from a journalist to prove the truth and credibility of his/her opinions, value judgments and commentaries.”

- “The right to freedom of expression may be subject to restrictions for the purposes of protection of the reputation or rights of others, public interest, the authority and impartiality of the judiciary, which, yet, should be subject to a very restricted interpretation.”

- “Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfillment”, etc.

For the purpose of observing the above mentioned principles and maintaining professional ethics of journalism, I highly appreciate the establishment of media self-regulatory mechanisms and development of codes of conduct for journalists. Since 2007 the Media Ethics Observatory operates in Republic of Armenia through Yerevan Press Club initiative. The MEO monitors the observance of the Code of Conduct of Media Representatives, considers complaints and appeals regarding the violations of the Code of Conduct and makes judgments on these. It is desirable that the disputes on the protection of honor, dignity and business reputation are settled by this very body with the aim of effective promotion of journalism ethics standards, elimination of violations as well as maintenance of media independence.

However, if one prefers to initiate court proceedings, I am certain that the aforementioned principles and case law interpretations of the European Court of Human Rights will lay the basis for your judgments,” the letter of RA Human Rights Defender Karen Andreasian said.

**ON APRIL 4** “Hraparak” daily received a notice of appointment from the court of general jurisdictions of Kentron and Nork-Marash administrative districts of Yerevan regarding the suit of Robert Kocharian, Second President of Armenia, versus **“Hraparak” founder, “Hraparak Oratert” LLC**. The reason for going to law became the piece, “Do They Destroy Kocharian, And Explain to Tsarukian?”, published in “Hraparak” on February 12, 2011. The plaintiff demanded to refute the information appeared in “Hraparak” that allegedly discredits his honor, dignity and business reputation, to compensate for the damage caused by libel and insult, as well as recompense the court expenses. The total amount of the financial claims was 6 millions AMD (about \$ 16,200), half of which were the court expenses. Besides, on March 28 as a pre-relief award the court put an arrest on the property and financial assets of “Hraparak” founder.

On April 5 in an editorial comment “Hraparak” noted that the daily became the third “target of the campaign of RA Second President against the media” (it implied about the three suits of Kocharian family). Nevertheless, the particularity of this suit is that, in addition to the financial claims, the plaintiff demanded to seize the property and financial assets of “Hraparak” founder, undermining the existence of the daily, “Hraparak” stressed.

On April 11 court released the property and financial assets of “Hraparak” founder.

At the court hearings that started on May 10 the plaintiff was granted time to provide the court with documents grounding his court expenses.

The May 31 expert conclusion of the Council on Information Disputes noted that the issue raised in the piece “Do They Destroy Kocharian, And Explain to Tsarukian?” was of public interest, as it touched upon the relations between key political figures and parties ahead of signing the memorandum on cooperation by the ruling coalition. The expressions of the piece, contested by the RA Second President and directly criticizing him, are overall value judgments by the piece author; and pursuant to the case law of European Court of Human Rights are not subject to prove. At the same time, one of the expressions can be qualified as statement of facts in conformity with the ECHR case law, the Council noted. However, the conclusion will depend on proofs provided by the respondent to the court. The expert conclusion also analyzed two other pieces by “Hraparak” - “Self-Constituted Letter on Behalf of Kocharian” (February 22, 2011) and “Personally from Kocharian, with Mistakes and Signature” (March 12, 2011), which are in fact a reply to the demand of Robert Kocharian’s representative on publishing a refutation on the piece which became a matter of the suit. According to the Council, the both articles contain value judgments of the author. Referring to the principles of ECHR, the Council reminded that politicians should be expected to be more tolerant of media criticism, and the limits of acceptable criticism are much wider as regards a politician as such than a private individual. According to the Council, the sum for compensation and court expenses, demanded by the plaintiff, are not commensurate to the damage caused. Supposedly, this sum exceeds the incomes of the respondent and obviously runs counter to the Order for determining reasonable fees for attorney service on defamation cases, approved on April 15, 2011 by the RA Chamber of Advocates (*see below*). The Council on Information Disputes recommended the court to take into consideration that the majority of the contested expressions are value judgments. As regards the phrases that may be viewed as statement of facts, the court decision would depend on the proofs provided by the respondent.

As of end-2011 the hearings on the case continued.

**ON APRIL 8 “Asparez” Journalists Club of Gyumri** released a statement informing that Ashot Gizirian, the Governor of Shirak region, has failed to implement the amicable agreement, concluded on June 16, 2010 between “Asparez” and the Governor.

On January 18 and 29, 2010 **the Board Chairman of “Asparez” Levon Barseghian** addressed Lida Nanian - the Governor of Shirak region at that time - requesting to provide information on budgetary funds, allocated in 2005-2009 as financial assistance to impecunious citizens of Shirak, the copies of the Governor’s relevant decisions, and on the 2005-2009 expenditure of budgetary funds under article “Representation Expenses”. As the requested information was granted partially, Levon Barseghian filed the RA Administrative Court of Gyumri, demanding 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 suit started on April 27, 2010 and ended on June 16 with an amicable

agreement. 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 (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club report for 2010 on www.ypc.am in "Media Reports" section*).

As the statement of "Asparez" Journalists Club noted, the Governor Ashot Gizirian failed to keep his word. The part of the documents, and even then unduly, was received by "Asparez" on January 14, 2011, only after addressing the Shirak Regional Department of the RA Service of Compulsory Execution of Judicial Acts. On March 30 the "Asparez" Board Chairman Levon Barseghian once again referred to the Service of Compulsory Execution for assistance in the full implementation of the amicable agreement. Besides, since March 30 till April 8 the Head of "Asparez" has tried to meet the Governor every day, however every time he got different excuses from the local administration staff, the statement stresses.

Given the abovementioned, "Asparez" Journalists Club stated that the administration of Shirak region, the former and the present Governors - Lida Nanian and Ashot Gizirian - conceal from the public the information on allocation of 70 million AMD to impecunious people at the expense of taxpayers. According to "Asparez", the aforesaid sources were allocated with serious violations and the NGO will continue its efforts to make this information public.

The press release of "Asparez", disseminated on June 16 - a year after the conclusion of the amicable agreement, informed that in May Shirak Regional Department of the RA Service of Compulsory Execution addressed the Administrative Court requesting to give explanations on the June 16, 2010 decision, which was subject to implementation. The Court revoked the application. As a result, the compulsory executors were not able to carry out their obligations for several months, while the law provides for a two-month term, the press release of "Asparez" noted.

"Asparez" addressed the RA Government. In the end-2011 with the support of the RA Ministry of Territorial Administration it received some information from the regional heads, including the Governor of Shirak. As Levon Barseghian stressed, "Asparez" would release the information after its verification and analysis.

**ON APRIL 8 the US Department of State** released the **report on human rights practices** in different countries of the world in **2010**, 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 always respect these rights in practice", and "there continued to be incidents of violence and intimidation of the press and press self-censorship throughout the year". The report also emphasized that media, especially television, lack of diversity of opinion and objective reporting.

During 2010 journalists were subject to physical attacks in connection with their professional activity. Many of the perpetrators remained unidentified, while representatives of law enforcement agencies also occasionally harassed journalists, the report noted. There were no new developments in the investigation of attacks against journalists recorded in previous years, there were no reports authorities took any special measures to protect journalists or to punish those who sought to intimidate them. The report listed the



2010 incidents, court litigations, linked to media representatives, as well as the attacks on journalists, made in 2009 and unresolved as of today.

The US Department of State did not pass over the broadcast licensing competitions, particularly the thirteenth denial by the National Commission on Television and Radio (NCTR) to grant a license to “A1+” TV company, deprived of air since 2002. The report mentioned that “A1+” had appealed the NCTR decision on the December 16, 2010 competition results. The State Department also reminded about the ruling of European Court of Human Rights of June 17, 2008 on the case of “A1+” founder, “Meltex” LLC, recognizing the refusals to grant a broadcast license 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.

As regards the media legislation, the report told about the decriminalization of libel and insult of May 18, 2010 and criticized the June 10, 2010 amendments to the RA Law “On Television and Radio”. According to the State Department, “the amendments failed to address key issues related to digitalization, such as the regulation of mobile and Internet broadcasting, digital transmitters, and network operators”. At the same time, the amendments contained provisions not technically necessary for digitalization, and, as domestic observers indicated, would significantly limiting media freedom and pluralism. Particularly, the adoption of the amendments leads to the reduction of the number of Yerevan and regional TV channels. The report also stressed that in spite of significant pressure from domestic media associations and international organizations, the government did not publicize the results of the technical audit of available frequencies on which the reduction was based.

In 2010 there were no government restrictions on access to the Internet, as it was done during the 2008 state of emergency, when the government deliberately blocked the independent or pro-opposition Web sites, the report underlined.

In the section dealing with political prisoners and detainees, Nikol Pashinian, the Chief Editor of “Haykakan Zhamanak” daily, was mentioned. The latter was found guilty in mass riots of March 1, 2008 in Yerevan, and sentenced to seven years of imprisonment. In March 2010 as a result of an amnesty applied the unexpired term of imprisonment of the journalist was cut down by half, the US Department of State annual report on human rights practices in different countries of the world stressed.

**ON APRIL 12** RA National Assembly adopted in second hearing and finally **the draft law on introducing amendments to the RA NA Regulations**, providing for an online broadcast of parliamentary open sessions. The document was passed in first hearing on March 3. According to the endorsed amendments, the National Assembly open sessions will be broadcast online since January 1, 2012.

**ON APRIL 13** the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of seven members of the religious organization “Jehovah’s Witnesses” versus the employees of **Public Television of Armenia *Gevorg Altunian, Sona Torosian, Nuneh Aleksanian and Edgar Davtian***. The reason for going to law was a plot, which informed that A.T., being accused for murdering his parents, is a member of “Jehovah’s Witnesses”. The TV piece was aired on November 9, 10 and 11, 2010 in the programs of PTA First Channel, “Haylur” and “Tesankyun”. The plaintiffs demanded to refute the untrue information, discrediting the honor, dignity and business reputation of the religious organization, entitle them to a right of reply, as well as made

financial claims.

As of end-2011 the case was in the preliminary hearings stage.

**ON APRIL 14 the Monitoring Committee of the Parliamentary Assembly of the Council of Europe** passed the report (co-rapporteurs - John Prescott and Axel Fischer) on **honoring of obligations and commitments by Armenia**. The document was developed on the fact-finding visit of the co-rapporteurs to Yerevan on March 16-17, 2011.

Two provisions of the Monitoring Committee report regarded the broadcast sphere.

Point 22 noted that the bid of “A1+” TV company, participating in the digital broadcast licensing competitions, was - once again - rejected. While not wishing to comment on the merits of the respective decision of the National Commission on Television and Radio (NCTR), especially since it is still sub judice, the co-rapporteurs stressed that “the pluralism criterion has not been sufficiently taken into account by the licensing authority when making its decision”. As a result, the tendering process did not lead to a more pluralist media environment, which was one of the PACE recommendations. “This matter should be urgently addressed by the authorities”, the report stressed.

Point 23 emphasized that one of the key problems with regard to the broadcast regulatory and licensing framework is the composition of the National Commission on Television and Radio. While the recently amended legislation strives to ensure the independence of the individual members, it does not require that the NCTR in its entirety is truly representative or reflects the different views that exist in the Armenian society. It is clear that the current formula for the composition of the NCTR - 50% nominated by the President of the Republic and 50% by the parliament (in which the ruling coalition has a comfortable majority) - does not lead to a heterogeneous and impartial composition from a political point of view. “This shortcoming should be remedied”, the report of the PACE Monitoring Committee mentioned.

The report on honoring of obligations and commitments by Armenia was to be presented to the PACE September session (*see below*).

**ON APRIL 15 the Council of RA Chamber of Advocates** approved the **Order for determining reasonable fees for attorney services in the cases regarding compensation of damage caused to the honor, dignity and business reputation**. The provisions of the RA Civil Procedure and Administrative Procedure Codes, providing for “reasonable attorneys’ fees” and “reasonable rates of court expenses” (including attorney services), respectively, served ground for developing this document. The legislation authorizes the courts to define reasonable rates of attorneys’ fees. Since the Civil Code was supplemented by Article 1087.1 (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”), in addition to the compensation foreseen by the law, the lawsuits versus media contain demands for paying off the attorney services, “which make in the average 2 million AMD in cases being considered nowadays” (about \$ 5,400), emphasized the Chamber’s Council. The document authors expressed a concern that in case of excessive claims by the plaintiffs, the court decisions, which are not pursuant to the reasonable rates of attorneys’ fees, can be incommensurate to the financial situation of media.

The Order for determining reasonable fees for attorney services sets maximum rates: 200,000 AMD - in cases on protecting the honor and/or dignity, and 300,000 AMD - in

cases on protecting the business reputation, damaged by libel and/or insult. At the same time, even if the suit contains all the three demands (protection of the honor, dignity and business reputation) or also others, the maximum amount should not exceed 300,000 AMD. While considering the cases by the upper jurisdictions, the abovementioned rates are applied by a factor of 0.8. Besides, the Chamber's Council specified that the Order does not curtail the freedom of attorneys when concluding contracts with their clients and setting their conditions. In its turn, the court may not take into account the contracts that stipulate large amounts.

The Chamber's Council stressed that the approved document has a supplementary nature and is destined only for judges, entitled to define the limits for attorneys' fees, as mentioned above.

The Order was presented to the RA Judicial Department for considering its applicability in the judicial practice.

**ON APRIL 18 "Investigative Journalists" NGO** received a notification informing that RA Court of Cassation has revoked its complaint on the case with Ijevan Municipality (Tavush region). The reason for about a three-year litigation became the articles "Whose Pocket Receives Money from Sand Mine?" and "Will the Three Commissions Notice the Illegal Use of Sand?". The pieces were published in "Hetq" online publication, founded by "Investigative Journalists", on May 5 and June 23, 2008, and in the supplement to "Azg" daily, "Transparent Local Self-Government", on May 20 and July 9, 2008, respectively. The information reflected in the articles discredited the honor, dignity and business reputation of Ijevan Mayor Varuzhan Nersisian - as seen by the city administration. Passing through several court hearings, the case was reconsidered by the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan. On July 9, 2010 the court bound the "Investigative Journalists" 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. "Investigative Journalists" contested this decision at the RA Civil Court of Appeal. On December 27, 2010 the Court of second jurisdiction partially secured the appeal of the plaintiff, reducing the amount to be compensated to 450 thousand AMD (*see details in "On Freedom of Speech in Armenia" Yerevan Press Club reports for 2008-2010 on [www.ypc.am](http://www.ypc.am) in "Media Reports" section*).

Going through all national jurisdictions "Investigative Journalists" addressed the European Court of Human Rights in December 2011.

**ON APRIL 21** Margarita Khachatrian, Chairwoman of "Zinvor" ("Soldier") Association of NGOs, accompanied by three people, came to the editorial office of "**Hraparak**" daily and started to express her indignation with an article. The piece informed about her visit to one of the military units and appeared in "Hraparak" on the same day. According to Armineh Ohanian, the Chief Editor of the daily, while talking with the staff the head of "Zinvor" was free-spoken, threw at them everything that came to hand, trying to strike; as a result they had to call the police.

On May 23 "Hraparak" received a notification, informing that the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan submitted to consideration the suit of Margarita Khachatrian versus the newspaper founder, "Hraparak Oratert" LLC. Head of "Zinvor" demanded to refute the information published in the piece, recompense the damage, made by libel and insult of 2 million AMD (about \$ 5,400) and

cover the state duty for filing the court.

On May 26 the law enforcement bodies notified the newspaper that criminal proceedings on the case are not instituted as a result of absence of corpus delicti. “Hraparak” founder addressed to the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan complaining against the decision of RA Investigative Service and the supervising prosecutor. On July 25 court secured the complaint. Court decision in favor of “Hraparak” was, in its turn, appealed at the RA Criminal Court of Appeal by the supervising prosecutor. However, on September 1, the court revoked the appeal, upholding the decision of the court of general jurisdiction. On September 26 “Hraparak” received a notification informing that Kentron Police Department has instituted criminal proceedings.

Thus, the criminal proceedings on the incident at “Hraparak” office were instituted pursuant to the court ruling.

**ON APRIL 21 RA Human Rights Defender *Karen Andreasian*** released a statement on **freedom of expression situation in Armenia**. The statement was stipulated by the 50th day since the appointment of Karen Andreasian as ombudsman. The Human Rights Defender was concerned about the lack of pluralism in the broadcast field, the possibility to limit journalists’ right to free expression because of judicial mistakes, as well as violation of law and elementary rules of journalistic ethics by media representatives, which can “humiliate one’s dignity”.

The ombudsman, particularly, noted that the numerous changes made in 2010 in the RA Law “On Television and Radio” did not solve several key issues: ensuring the legal basis for the activities of digital broadcasting non-state operators, liberalization of satellite broadcasting, etc. The amendments resulted in reduction of acting TV companies, which raised the concern of both local and international communities. While the Government stipulated the amendments by technical issues regarding digitalization, an independent audit of frequencies was not carried out, the statement stressed. Besides, the broadcast licensing competitions “did not meet the expectations of the part of the society, willing to see “A1+” on air again”. According to the ombudsman, investing new technologies in Armenia under due legal regulation may result in a considerable increase of TV channels and in the broadcast of the ones deprived of a license.

Reminding about the establishment in October 2010 of the working group on reforming the legislation, regulating the digital switchover in Armenia, Karen Andreasian informed that the amendments package developed by the group will be debated in the end of April - beginning of May with OSCE and CoE experts, as well as at the Media Freedom Forum, organized by RA Human Rights Defender.

As regards the decriminalization of libel and insult, the ombudsman highlighted that today the protection of freedom of expression and human dignity depends on proper application of legislation by judges pursuant to international standards. The law prohibits the Human Rights Defender to intervene into judicial proceedings, therefore all the pending judicial cases cannot be considered by him. However, Karen Andreasian declared that during the Media Freedom Forum he intends to present a concrete mechanism for preventing judicial mistakes regarding freedom of expression cases (*see below*).

**ON APRIL 23** under the stands of “Hrazdan” stadium of Yerevan Arkadi Andreasian, the coach of “Ararat” team of Yerevan and former well-known football player, impeded the work of ***Ashot Arushanian***, photo correspondent of **TotalFootball.am**. The incident

occurred during the time-out of the game, when the journalist started shooting the players who were heading to their lockers. According to TotalFootball.am, crying out “Who are you taking pictures of?!”, Arkadi Andreasian hit the journalist, and people, accompanying the coach, attacked Ashot Arushanian demanding to delete the pictures. The journalist arrived to hospital with face injuries and was discharged the next day.

On May 23 at the session of the Executive Committee of Football Federation of Armenia the decision of the Federation Disciplinary Commission was approved. The decision prescribes a punishment towards Arkadi Andreasian. The Executive Committee resolved to deprive Arkadi Andreasian of his coach functions for 10 matches - “for improper and unsportsmanlike conduct”, as well as impose a fine on “Ararat” team in the amount of 250,000 AMD (about \$ 850).

## **MAY 2011**

**ON MAY 1** at the Media Freedom Forum, organized by RA Human Rights Defender’s Office with support of European Union, it was announced about the establishment of the **Council on Information Disputes**. The missions of the Council list preparation and release of advisory expert conclusions on court litigations regarding libel and insult, protection of private life and freedom of information, as well as providing consultations to the Armenian legislative and executive authorities, local self-government bodies and citizens. The members of the Council are: Secretary - Shushan Doydoyan, Head of Freedom of Information Center; Boris Navasardian, President of Yerevan Press Club; Aram Abrahamian, Chief Editor of “Aravot” daily; Ara Ghazarian, Deputy Director of “Arni Consult” law firm; Manana Aslamazian, Director of “Alternative Resources in Media” project.

In 2011 the Information Disputes Council rendered the five expert conclusions on defamation cases:

1. May 31 conclusion on the suit of Robert Kocharian, Second President of Armenia, versus founder of “Hraparak” daily, “Hraparak Oratert” LLC (*see above*);
2. June 27 conclusion on the suit of Tigran Arzakantsian, RA National Assembly Deputy, member of Republican Party of Armenia, versus founder of “Yerkir” daily, “Yerkir’ Editorial Office” LLC (*see above*);
3. July 22 conclusion on the suit of Tigran Arzakantsian, RA National Assembly Deputy, member of the Republican Party of Armenia, versus founder of “Iravunk” newspaper, “Iravunk Media” LLC (*see below*);
4. October 20 conclusion on the suit of RA National Assembly MPs Samvel Aleksanian (unaffiliated), Levon Sargsian and Ruben Hayrapetian (members of Republican Party of Armenia faction) versus founder of “Haykakan Zhamanak” daily, “Dareskizb” LLC (*see above*);
5. October 28 conclusion on the suit of Paravon (Pharaoh) Mirzoyan, Director of the Armenia National Art Gallery, versus founder of “Chorrord Inknishkhanutium” daily, “Trespassers W.” LLC, and artist Sergey Gasparian (*see below*).

The expert conclusions of the Information Disputes Council are available in Armenian at [www.ypc.am](http://www.ypc.am) in “Advocacy and Expertise” section.

**ON MAY 2** the international human rights organization “**Freedom House**” released its **annual report on freedom of press in the world in 2010**. “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.

Out of 196 countries and territories surveyed in 2010 in 68 (or 35%) media were recognized free, in 65 (or 33%) - partly free and in 63 (or 32%) were rated not free. Thus, only 15% of world inhabitants (lowest index for the last decade) live in countries that enjoy free press, 42% have a partly free press, and 43% - not free press.

In contrast to the previous study, the 2010 index of Armenia increased by one point, making 65 points (versus 66 in 2009). However, since 2002 Armenian media continue to be not free.

**ON MAY 9** the report, prepared by **Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe**, following his January 18-21, 2011 visit to Armenia, was released. In the report Thomas Hammarberg also addressed **the situation around the freedom of expression in Armenia**.

Particularly, the Commissioner for Human Rights welcomed the decriminalization of libel and insult through amendments to the RA Criminal Code in May 2010. However, Thomas Hammarberg expressed concerns about the provisions of RA Civil Code, which introduce high monetary fines for insult and defamation, and about the increase of cases brought against media on this basis. The CoE Commissioner for Human Rights is aware of the discussions on the amended RA “Law on Television and Radio”, and invites the Armenian authorities to take into consideration the comments from international experts and proposals submitted by the working group on reforming the legislation regulating the digitalization process in Armenia, the report noted. As for attacks and threats on journalists, they should be firmly condemned by the country’s leadership, investigation into these cases should be prompt and effective, and those responsible should be held to account, Thomas Hammarberg mentioned.

“Pluralism within the audiovisual media spectrum is the hallmark of a healthy democracy which attaches importance to the principle of freedom of expression”, the report stressed. In this context, the Commissioner for Human Rights regretted to note that the digital broadcast licensing competitions did not contribute to the promotion of this principle. Thomas Hammarberg highlighted the reasoning provided by the National Commission on Television and Radio on the competition between “A1+” and “ArmNews” TV companies’ founders (this regards competition No.11, the winner of which became “ArmNews”, *Ed. Note*). “The methodology used to assess the bids was problematic and it affected the credibility of the tender”, the report of Thomas Hammarberg CoE Commissioner for Human Rights emphasized.

**ON MAY 11** RA Administrative Court partially secured the suit of **Transparency International Anti-Corruption Center** versus the Yerevan Municipality regarding the provision of requested information. The reason for the suit became the inquiry of the Anti-Corruption Center of August 28, 2009, demanding to provide the copies of the RA Government’s or Yerevan Municipality’s decisions on changing the green zones of the

capital, on their privatization or temporal exploitation, as well as the copies of the documents on architectural projects and permissions for construction in the green zones within 1998-2009. The response of the city administration noted that a part of the requested documents was kept at its divisional offices, the other part - in the archive. Meanwhile, the divisional offices, mentioned by the Municipality, respond to the Center's further requests, noting that they did not possess the inquired information. As a result, the Anti-Corruption Center went to law; the suit was taken into consideration on August 5, 2010.

During the hearings the Yerevan Municipality provided the plaintiff with a part of the information, while the other part was to be provided upon the court decision. The respondent appealed this ruling. On October 27 RA Administrative Court of Appeal and on December 14 RA Court of Cassation revoked the appeals.

**ON MAY 13** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of Tigran Arzakantsian, RA National Assembly MP, member of Republican Party of Armenia faction, versus **founder of "Iravunk" newspaper, "Iravunk Media" LLC**. The matter of the suit became the piece "Lost a Pretty Penny?", published in "Iravunk" on February 22, 2011. The plaintiff demanded to refute the information discrediting his honor and dignity, oblige the newspaper founder to compensate 3 million AMD (about \$ 8,100), as well as pay off the court expenses of 568,000 AMD, from which 500,000 AMD were fees for attorney services. The suit was submitted to consideration on March 24.

On June 24 the court acknowledged all the demands as ungrounded and resolved to exact from Tigran Arzakantsian the state duty of 10,000 AMD for addressing the court.

In the July 22 expert conclusion the Council on Information Disputes stressed that the court decision was rendered in compliance with all the principles of national and international law.

**ON MAY 16** in RA National Assembly an incident happened between **Marineh Kharatian, correspondent of "Hraparak" daily**, and MP from Republican Party of Armenia faction, brother of RA President Serzh Sargsian, Alexander Sargsian. As "Hraparak" informed, the journalist inquired whether the deputy would run in the upcoming 2012 parliamentary elections. The question annoyed Alexander Sargsian: he grabbed the recorder from the hands of the journalist, shut it off and started swearing. According to "Hraparak", if it wasn't the interference of the employee of the NA administration, Alexander Sargsian would start laying hands.

**ON MAY 26** RA National Assembly approved in second hearing and finally **the amendments package to RA Laws "On Advertising" and "On Television and Radio"**. The first hearing was held on the eve, May 25.

The amendments of RA Law "On Advertising" abrogated the provision on one of the types of umbrella advertising, which bans any mentioning of the producer/vendor/provider of goods and services, the advertising of which is restricted by the legislation. The other change provided for the extension from 10 to 14 minutes of the permissible limit of advertising within one air hour. At the same time, the daily airtime will be calculated starting from 00.00. Another supplement prescribed an advertising ban for the rebroadcasting TV companies, except for the commercials of those TV channels that they rebroadcast. The same ban applied to "Shoghakat" spiritual and cultural public TV

channel, established in the end of February 2011 (see above). Finally, as advertising via broadcast media was to be classified: every information on sponsorship of TV and radio programs, TV markets, as well as “creeping line” of advertising nature accompanying the TV programs.

The amendment to Article 54 (“Granting a License”) to the RA Law “On Television and Radio” exempted the rebroadcasting TV companies from paying state duty for implementing broadcast.

## **JUNE 2011**

**ON JUNE 15 the NGO-members of the working group on reforming the broadcast legislation, regulating the process of switching from analogue to digital broadcast in Armenia, released a statement.** The working group, headed by the RA Human Rights Defender, was created in September 2010 upon the initiative of RA President Serzh Sargsian (see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2010 on [www.ypc.am](http://www.ypc.am) in “Media Reports” section).

The statement signatories were the heads of three NGOs: **Nouneh Sarkissian, Managing Director of Internews Media Support public organization, President of Yerevan Press Club Boris Navasardian and Arzuman Harutiunian, President of Audio-Visual Reporters Association.**

“In 2010 the RA Human Rights Defender formed a working group (WG) on reforming the broadcast legislation, regulating the process of switching from analogue to digital broadcast in Armenia. The group aimed at amending the RA Law “On Television and Radio”, proceeding from the numerous critical appraisals. In February 2011, the preliminary draft version developed by us - several NGOs - was adopted by the working group to serve as a basis for further improvements.

On May 31, 2011 the draft law was submitted to the RA National Assembly supplemented by the comments and suggestions from the WG members, also by the conclusions delivered by international experts regarding the preliminary draft version. Simultaneously, this indicated the end of the WG activities, which was formed to address the most urgent problems in the field.

We, WG members-representatives of journalistic NGOs, express our concern with the current version of the draft, considering it imperfect, and the shutdown of the WG activities - premature. The draft contains a number of important clauses that were not properly addressed and still require a thorough discussion and analysis. Suggestions and recommendations provided by the experts, including the feedback from the Council of Europe and OSCE, were not considered in full and completely.

Such a situation questions the initial key objective of our activities, which is to contribute to the adoption of a perfectly worked out law by the RA National Assembly.

As the co-authors of the preliminary draft version, we state that we continue our activities over the improvement of the draft and in future we are intended to submit it to the RA National Assembly in a separate package. Given this fact, we would like to request the NA Standing Committee on Science, Education, Culture, Youth and Sport to postpone any possible discussion on the draft,” the statement of the three journalistic associations stressed.



On November 4 the revised amendments to RA Law “On Television and Radio” were presented to the RA NA Standing Committee on Science, Education, Culture, Youth and Sport. On December 15 the discussion on the amendments was held at the Standing Committee. It was attended by representatives of state bodies, international organizations, journalistic associations, including Yerevan Press Club and Internews. At the meeting the Committee Chairman Artak Davtian stressed that the suggestions voiced during the discussion will be taken into account, and in five business days the draft law will be put into circulation at the National Assembly.

As of end-2011 the draft law was not submitted to circulation at the parliament.

**ON JUNE 15** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of **Hayk Babukhanian, Chairman of the Editorial Council of “Iravunk” newspaper**, versus **“Khmbagir” LLC, founder of Report.am news portal**, and **Edik Andreasian, Report.am observer**. The plaintiff demanded to refute the information discrediting his honor, dignity and business reputation, as contained in the piece by Edik Andreasian “When Forcing the Unpromptable” (stored on Report.am on March 25, 2011) and in the readers’ comments on that piece. Hayk Babukhanian also demanded to compensate the moral damage of 1 million AMD (more than \$ 2,500), cover the court expenses, including the state duty for filing the court of 8,000 AMD and the attorney services fee (meanwhile, the plaintiff did not specified the sum). Together with the suit - submitted to consideration on April 22, 2011 - a petition was made requesting to prohibit the respondent to diffuse any information on another case which was being considered by the same court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan. This regarded a similar suit on protecting the honor, dignity and business reputation, lodged by **Hayk Babukhanian and founder of “Iravunk” newspaper, “Iravunk Media” LLC, versus Report.am founder, “Khmbagir” LLC, and news portal’s observer Edik Andreasian**. The subject matter of the case was the September 1, 2010 piece of Report.am “The Right of ‘Iravunk’ on the Edge of Hayk Babukhanian’s Sword”. The plaintiffs demanded to refute the discrediting information, as contained in the piece, as well as exact from each respondent 3 million AMD (about \$ 8,000) as moral damage compensation, caused by libel and insult. This suit was submitted to consideration on November 22, 2010; the hearings started on January 27, 2011. The motion on banning the diffusion of any information regarding the case was secured, and Report.am removed all the respective materials from its website.

As of end-2011 the hearings on both of the cases continued.

**ON JUNE 16** court of general jurisdiction of Ajapnyak and Davitashen administrative districts of Yerevan released rulings on two similar suits on the protection of honor and dignity of Gevorg Hayrapetian and Ashot Harutiunian (being accused for a criminal case) versus **founder of “Kentron” TV channel, “Multimedia-Kentron TV” CJSC**. The reason for going to law were the pieces aired in the programs from “Investigation” cycle of “Kentron” TV channel and broadcast on November 14-21, 2010 (in the case of Gevorg Hayrapetian) and on December 26-27, 2010 (in the case of Ashot Harutiunian). According to the plaintiffs, the factual inaccuracies in the pieces discredited their honor and dignity. Besides, the programs were aired on “Kentron” before the court verdicts came into effect, thus the presumption of innocence was violated. The plaintiffs demanded to bind the founder of “Kentron” to provide free air for refuting the untrue information, compensate the damage caused by libel and insult in the amount of 3 mln AMD (about \$ 7,900) to each. Besides, Gevorg Hayrapetian demanded to pay off his expenses for attorney’s services of

300,000 AMD, and Ashot Harutiunian - 250,000 AMD.

The court revoked the two suits. The plaintiffs appealed the decisions at the upper court jurisdictions. On September 7 RA Administrative Court of Appeal upheld the decisions of the court of general jurisdiction. On November 2 RA Court of Cassation revoked the complaint of Gevorg Hayrapetian, and on November 9 - the one of Ashot Harutiunian.

**ON JUNE 26** the suit of the Director of the Armenia National Art Gallery Paravon (Pharaoh) Mirzoyan versus **the founder of “Chorrord Inknishkhanutiun” daily, “Trespassers W.” LLC**, and artist Sergey Gasparian was taken into consideration by the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan. The reason for the suit became the article “To Know Pharaoh”, published in “Chorrord Inknishkhanutiun” on April 9, 2011. The piece contained unpleasant expressions by Sergey Gasparian, critically assessing the Head of the National Art Gallery Paravon Mirzoyan. The plaintiff demanded to refute the information discrediting his reputation, compensate the moral damage made to his honor and dignity of 3 million AMD (about \$ 7,900), as well as the pay off the court expenses of 360,000 AMD (about \$ 950).

The October 28 expert conclusion of the Information Disputes Council stressed that some of the contested expressions in the piece are value judgments, the opinion of the journalist reflected in a satiric style. This is in line with the spirit of Article 10 of the European Convention, which protects not only the right to freedom of information but also the form and the means of its presentation. The remaining disputed expressions do not lack factual bases, noted the conclusion. At the same time, the Council stated that the expressions, qualified as defamatory by the plaintiff, had been published in another media, and “Chorrord Inknishkhanutiun” presented them with a reference to the original source. The Council on Information Disputes concluded that the conflict is rather an ethical matter than a legal one, therefore it should be set out of court, particularly through the Media Ethics Observatory.

On November 2 the founder of “Chorrord Inknishkhanutiun” addressed the Media Ethics Observatory for receiving an expert judgment on the judicially disputed article. MEO was formed on March 10, 2007 by the heads of Armenian media who supported the YPC initiative on establishing a self-regulation system in Armenia. The mission of the MEO consists in the consideration of complaints and appeals regarding the violations of the Code of Conduct of Media Representatives and making judgments on these (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2007 on www.ypc.am in “Media Reports” section*).

On December 25 the Media Ethics Observatory rendered the judgment on article “To Know Pharaoh”. Even though pointing out some shortcomings of the piece, the MEO particularly noted that a number of expressions contested by the Art Gallery Director are not facts but value judgments. Hence, their validity is improvable. MEO concluded that the conflict between Paravon Mirzoyan and the daily “is a matter of journalistic ethics” and may be settled “through publication in ‘Chorrord Inknishkhanutiun’ of the refutation or reply text provided by Paravon Mirzoyan, or publication of the MEO judgment in the daily” (*full text of MEO judgment is available in Armenian at www.ypc.am in “Self-Regulation” section*).

As of end-2011 the hearings on the case had not started.

**JULY 2011**

**ON JULY 8** at court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan finished the preliminary hearings on the suit of the construction company “Glendale Hills” versus **founder and publisher of “Zhamanak” daily, “Skizb Media Kentron” LLC**. The reason of the suit was the piece ““Glendale Hills’ Offered 1000 Dollars for Silence”, published in “Zhamanak” on August 26, 2010. The article informed that in August 2010 there were collapses in a newly built house in Gyumri, and the building contractor, “Glendale Hills”, offered the tenants a financial compensation, promised to restore the damages, if only the media did not know about the incident. The suit was submitted to consideration on September 24, 2010; the preliminary sessions started since November 26, 2010. “Glendale Hills” demanded from “Zhamanak” founder to refute the information as contained in the piece that discredit its business reputation, compensate the damage caused by defamation of 2 million AMD (about \$ 5400) and cover the court expenses of 500,000 AMD.

As of end-2011 the hearings on the case continued.

**ON JULY 13** court of general jurisdiction of Gegharquniq region released a verdict on the communication of **Eduard Petrosian, cameraman of “Shant” TV company**, versus Vladimir Baghdasarian, priest of the Sevan community of “Unity” Church of Armenian Evangelical Christians. The reason for the court litigation became the incident that happened on November 10, 2010 in Sevan where the shooting team of “Shant” TV company - correspondent Arpi Sukiasian and cameraman Eduard Petrosian - was assigned to duty. The journalists entered a building, which had no signs, and found out that it was the place of gathering of the abovementioned religious organization (at the same time one of the floors of the building was privately owned). When Vladimir Baghdasarian saw that the journalists were shooting, he demanded the cameraman to turn off the video and leave the building, and then he hit the cameraman on his face. On the same day, on the evening air of its news program “Horizon” “Shant” presented about the incident as a report on a crime.

Right after the incident, in his turn, Vladimir Baghdasarian brought a communication to the police accusing the **correspondent of “Shant” Arpi Sukiasian** and **cameraman Eduard Petrosian** in illegal incursion into property (under Article 147 of RA Criminal Code “Violation of inviolability of domicile”).

On December 24, 2010 criminal proceedings were instituted versus Vladimir Baghdasarian.

On February 17, 2011 the Sevan Department of RA Police denied to institute criminal proceedings versus the journalists of “Shant” under the absence of corpus delicti.

On February 25 Vladimir Baghdasarian appealed the decision of Sevan Police Department at the court of general jurisdiction of Gegharquniq region. The appeal was revoked on July 13.

As regards the case of “Shant” cameraman Eduard Petrosian versus Vladimir Baghdasarian, the court found the priest guilty with charges of Part 1 of Article 164 of RA Criminal Code (“Impeding of legitimate professional activities of a journalist”) and imposed a fine of 200,000 AMD. At the same time, the court pardoned the priest (the amnesty was announced by RA National Assembly on May 26, 2011, on the occasion of the 20th anniversary of Armenian independence) and exempted him from paying the fine.

Vladimir Baghdasarian appealed both the accusatory verdict against him (demanding to hold his innocence), as well as the court decision on revoking the appeal regarding the non-institution of criminal proceedings versus the journalists of “Shant”.

On December 12 RA Criminal Court of Appeal upheld the decisions of the general jurisdiction court on both of the cases.

**ON JULY 15** RA Court of Cassation rendered a decision on the complaint of **“Meltex” LLC, founder of “A1+” TV company**, regarding the constitutionality of Article 204.38 of the RA Civil Procedure Code (“The terms of reconsidering judicial acts under reopened or new circumstances”). The application was submitted to consideration on March 2, 2011 and was further consolidated in one case - with other suits contesting this and other similar legislative provisions.

The application of “Meltex” LLC, in particular, noted that during the reconsideration of cases under new circumstances the law enables the court to uphold the previous judgments. In other words, the implementation of the rulings of RA Constitutional Court or European Court of Human Rights is rendered impossible.

The July 15 ruling of the Constitution Court held the unconstitutionality of the contested provision of Article 204.38 of the Civil Procedure Code.

This ruling provided “A1+” founder with the opportunity to address the Court of Cassation once again, demanding to reconsider the judgments of 2004 on the suits of “Meltex” LLC versus National Commission on Television and Radio under a new circumstance - the June 17, 2008 ECHR judgment, recognizing the refusals to grant “A1+” founder a broadcast license to be a violation of the Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, i.e., of the right of the applicant to freely impart information and ideas.

It should be noted that on February 23, 2010, on the complaint of “Meltex”, RA Constitutional Court had already recognized unconstitutional and invalid the then in-effect Point 1 of Article 204’28 of the RA Civil Procedure Code (“The competences of the court in case of revision”). Namely this provision made a basis for the RA Court of Cassation to decline on February 19, 2009 the demand of “A1+” founder to reconsider the two rulings of the Court of Cassation (February 27 and April 23, 2004) on suits of “Meltex” LLC versus NCTR - under new circumstances in the case (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2009 on www.ypc.am in “Media Reports” section*). In May 2010 the civil procedure legislation was amended, consequently the “A1+” founder once again addressed the Court of Cassation for reconsideration of the 2004 rulings. However, in August 2010 Court of Cassation revoked the application of “Meltex” again, grounding its denial with the May 2010 amendments.

In fact, on July 15, 2011 RA Constitutional Court acknowledged the May 2010 amendments to RA Civil Procedure Code non-compliant to the Main Law.

**ON JULY 28** at about 23.30 at the Republic Square of Yerevan **Ani Gevorgian, correspondent of “Haykakan Zhamanak” daily**, witnessed how the police were detaining a woman that had disturbed the public order. When the police officers noticed that the journalist was taking pictures, one of them came up to her shouting “Why are you shooting, mind your own business?!” and tried to pull out the camera.

On July 30 “Haykakan Zhamanak” published an information about the incident, attended with photos, including the ones of the policeman who had assaulted the journalist. In P.S. the daily noted that the published information might be considered as a communication about a crime. According to “Haykakan Zhamanak”, criminal proceedings on the incident with Ani Gevorgian haven not been instituted.

## **AUGUST 2011**

**ON AUGUST 29** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan took into consideration the suit of citizen Gurgen Aghajanian versus **founder of “Zhoghovurd” daily, “Editorial Office of ‘Zhoghovurd’ Newspaper” LLC.** The reason for going to law became the article "Galust's Son Is Required to", published in “Zhoghovurd” on August 9, 2011. The piece started with the words: ““Zhoghovurd’ received a letter from Gurgen Aghajanian (...)”. It further noted that on August 6 the daily received a letter in an envelope indicating the name of the sender, Gurgen Aghajanian. The letter was sent as a receipt notification, where the return address was that of the Department of the State Property Management of the RA Government. At the same time, the letter was not signed. It told about the abuse of office by Karineh Kirakosian, ex-Head of the State Property Management Department, member of Council of Republican Party of Armenia, and the former Deputy Head of Department Ashot Markosian. The newspaper addressed Karineh Kirakosian for comments. She assumed that the information brought in the letter was untrue and the author did it in revenge of his dismissal of years ago.

On August 10, the next day after the publication of the article, Gurgen Aghajanian declared that he had not written any letters and demanded to publish his text of refutation. “Zhoghovurd” denied publishing it for the text was not but a self-praise of Gurgen Aghajanian and could not be considered as a proper reply. On August 24 Gurgen Aghajanian went before the court (Karine Kirakosian and Ashot Markosian were third parties in the case). The plaintiff required the newspaper publish a refutation and compensate the moral loss caused by slander in the amount of 500,000 AMD, pay off the attorney expenses - 300,000 AMD and state duty of filling the court - 4,000 AMD. The overall amount of financial claims made 804,000 AMD (about \$ 2,000).

As of end-2011 the hearings on the case had not started.

## **SEPTEMBER 2011**

**ON SEPTEMBER 7** the representatives of the RA Service of Compulsory Execution of Judicial Acts put an arrest on the property of **“Hraparak” daily founder, “Hraparak Oratert” LLC**, in the amount of 3 million AMD (about \$ 8,200), as a measure to secure the suit. Another measure applied was the restraint imposed on “Hraparak” on publishing any information on the case - until the court renders a judgment. The ground for the compulsory execution was the August 31, 2011 decision of the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan.

On September 8 the copy of the decision on the compulsory execution was published by “Hraparak” and accompanied with an editorial “Which Judge is Higher than the RA Constitution?” The article expressed bewilderment and informed that “Hraparak” has received neither the suit, nor the decision that became ground for imposing sanctions versus the daily. According to “Hraparak” allegations, the suit may have been submitted by Misak Martirosian, Head of the RA Judicial Department.

On September 9 the RA Human Rights Defender Karen Andreasian made a statement in which he expressed deep concerns regarding any kind of threats versus the freedom of expression and media, as well as the improper application of legislation in this sphere. Stressing that he did not have any competence to interfere with the cases that are pending at court, the ombudsman urged the government to refrain from any actions that curtail the freedom of expression and information, "which in fact result in establishing a culture of censorship". The message listed the case law principles of the European Court on Human Rights on a prior ban on the publication (the case of "Observer" and "The Guardian" versus UK): even a short-term delay of the publication, specifically, where the press is concerned, deprives a journalist's article of a large part of its interest.

Meanwhile, the assumptions of the newspaper about the person of the plaintiff were soon proved. Misak Martirosian disputed the articles, "Judicial Department Is A 'Misakanots'" and "Judicial Department Is A 'Misakanots'" -2, published in "Hraparak" on August 11 and 12, 2011, respectively. The factual basis for the pieces was the letter of a citizen, criticizing the activities of the Judicial Department; the letter was also sent to the RA Ministry of Justice and RA Procuracy.

On October 3 the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan approved the amicable agreement between "Hraparak" founder and Misak Martirosian, Head of the RA Judicial Department. The text of the amicable agreement should have been published by the newspaper within a month.

The agreement, published on November 4, particularly noted that the information presented in the citizen's letter is untrue, while the signature under it is a counterfeit. The "Hraparak" founder expressed regret for the hasty publication of the article, which contained untrue information, discrediting the honor and dignity of Misak Martirosian, RA Judicial Department Head. The latter, in his turn, abandoned his legal claims.

**ON SEPTEMBER 9** court of general jurisdiction of Shirak region started hearing the suit on the protection of the honor and dignity of Arman Avetisian, Chairman of the Board of Trustees of "Minas Avetisian" Charitable Foundation, versus **Levon Barseghian, Board Chairman of "Asparez" Journalists Club of Gyumri.**

The reason for the suit became the pieces "Struck the Family Capital", "Arman Avetisian Is Lying for Unknown Reasons", "Some Things Cannot Be Forgiven", placed on "Asparez" website ([www.asparez.am](http://www.asparez.am)) on June 11-16, 2011. The articles dealt with the developments regarding the transfer from Gyumri to Yerevan of two frescoes by the famous Armenian painter Minas Avetisian (Arman Avetisian is one of his sons). The respective governmental decision was passed on April 28, 2011 and resulted in a wide protest, numerous actions in Gyumri. On June 27 the Head of "Asparez" received a letter from Arman Avetisian with a demand to publish a refutation or a reply. The letter was stored on the "Asparez" website on June 30. Besides, Levon Barseghian expressed his readiness to publish the refutation, whenever it was presented by Arman Avetisian. Meanwhile, on August 4 the Head of "Minas Avetisian" Foundation addressed the court.

The suit was taken into consideration on August 12. Arman Avetisian demanded to oblige Levon Barseghian to present apologies, publish a refutation and the court ruling, compensate the damage for libel and insult in the amount of 2 million AMD (about \$ 5,500), as well as the court expenses of 200,000 AMD.

As of end-2011 the hearings on the case continued.

**ON SEPTEMBER 13** the hearings on the suit of **Committee to Protect Freedom of Expression (CPFE)** versus the **National Commission on Television and Radio (NCTR)** were held at the RA Administrative Court. On February 21, the CPFE had inquired the NCTR to provide the application packages of the TV companies taking part in the broadcast licensing competitions, which were summed up on December 16 and 23, 2010. The NCTR had answered that the information requested could be provided, with the exception of those documents that contained commercial secret, specifically contracts on rebroadcasting of programs of foreign TV stations, as well as resumes of the TV companies' staff. On April 11 CPFE filed a suit before the RA Administrative Court demanding to bind NCTR with fully providing the inquired information. On April 18 the suit was taken into consideration.

On September 27 Administrative Court revoked the suit. The ruling was based on the grounds of Part 1 of Clause 1 of Article 8 of RA Law "On Freedom of Information", according to which the provision of information may be denied if it contains state, official, bank, commercial secret.

CPFE appealed this decision. As of end-2011 the appeal had not been considered by the court of upper jurisdiction.

**ON SEPTEMBER 14** the Dilijan court of general jurisdiction of Tavush region started hearings on the suit of "Ijevan Road Construction and Exploitation" CJSC versus "**Ijevan Studio**" LLC and its correspondent **Naira Khachikian**. The reason for addressing the court was the plot aired by "Ijevan" on June 21, which criticized the actions of the road construction company (the piece was also broadcast by Second Armenian TV Channel and "Yerkir Media" TV company). The plaintiff demanded to bring apologies, pay off 3 mln 264 thousand AMD (about \$ 8,600), from which 3 mln for compensating the damage caused to the business reputation, 200,000 - attorneys' services and 64,000 AMD - state duty for filing the court.

Later the case was submitted to the of Ijevan court of general jurisdiction of Tavush region and was taken into consideration on December 12.

As of end-2011 the hearings on the case continued.

**ON SEPTEMBER 20** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan released the judgment on the suit of protecting the honor and dignity of Pr. Tatul Manaserian, former Advisor to RA National Assembly Chairman, Doctor of Economics, versus **the founder of "Zhamanak" daily, "Skizb Media Kentron" LLC**. The reason for the suit became the piece, "Criminal Proceedings versus the Advisor to NA Chairman?", published in "Zhamanak" on September 29, 2010. The article alleged that criminal proceedings on a charge of usury were instituted versus the Speaker's Advisor by the Kentron Police Department. On the same day, Tatul Manaserian called to the daily's editorial office demanding to refute the information discrediting him. The next day, on September 30, "Zhamanak" published an article "Mr. Manaserian Haven't You Lent \$40,000 at Interest?", which explained that criminal proceedings were instituted not versus Tatul Manaserian, but on the case of usury. On October 29, 2010 Tatul Manaserian addressed the court. The plaintiff demanded to bind the newspaper with publishing a refutation, pay off 2,5 million AMD (about \$ 6,800), from which 2 million - as a compensation for the damage caused by defamation, while the 500,000 - court expenses. The case was submitted to consideration on November 1, 2010.

On September 20, 2011 the court secured the suit partially, obliging the founder of “Zhamanak” to publish a refutation and pay off the plaintiff 510,000 AMD: 300,000 - compensation for moral loss, 200,000 - court expenses, and 10,000 - state duty for filing the court.

On October 24 the founder of “Zhamanak” appealed the ruling, demanding to abolish it and render the case for a new consideration. On December 15 RA Civil Court of Appeal upheld the ruling of the court of general jurisdiction. Civil Court of Appeal grounded the revocation of the complaint particularly by the fact that “Zhamanak” had not duly refute the information discrediting the plaintiff.

The founder of “Zhamanak” announced about its intention to contest this ruling at the RA Court of Cassation.

As of end-2011 the appeal had not been considered by the upper court jurisdiction.

**IN THE MORNING OF SEPTEMBER 21** in the center of Yerevan **Levon Barseghian, Board Chairman of “Asparez” Journalists Club of Gyumri**, and sculptor Arno Kur (Sasha Galechian) were detained by the police. The twelve citizens, who had gathered at the statue of Martiros Sarian, were preparing for the protest action against the participation of foreign units in the military parade on the occasion of the 20th Anniversary of Armenia’s Independence. The lieutenant colonel of police who introduced himself as one of the heads of the Kentron Police Department, questioned the activists about their intentions, then went away, and after a while ordered the representatives of law enforcement bodies to arrest the action organizers - Levon Barseghian and Arno Kur. The latter ones were conveyed to the Kentron Police Department, where they stayed more than 3 hours and were released when the parade was over. In the evening of the same day Levon Barseghian and Arno Kur delivered a statement, which particularly noted that their detention was illegitimate: there was a use of force, an attorney was not allowed to visit them, and they were not presented the protocol of reconduction. The statement authors emphasized that the police violated their constitutional rights to freedom of movement, assembly and expression; thereby they are intended to address the court.

In December Levon Barseghian addressed the RA Administrative Court with a suit versus the Kentron Police Department. The suit was taken into consideration.

As of end-2011 the hearings on the case had not started.

**ON SEPTEMBER 27** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan released a ruling on the suit of Susanna Baghdasarian, dweller of Areni village, Vayots Dzor region, versus **“Hayk” newspaper, its correspondent Arman Galoyan** and inhabitant of Areni village Svetlana Arakelian. The reason for the suit became the piece “In the Wake of Murder”, published in “Hayk” on August 8, 2008. It told about the murder of Karen Manukian, committed by Susanna Baghdasarian’s spouse, Hamlet Baghdasarian. The article cited the opinion of the widow of the killed, Svetlana Arakelian, who spoke about the family of Baghdasarian rather unflatteringly, in particular about their death son. The plaintiff demanded to refute the information, defacing the memory of her son. The suit was taken into consideration on August 23, 2010, the hearings started on October 26, 2010.

According to the court ruling of September 27, 2011, the information subject to refutation



was reflected not in the words of the journalist, but in the quoted opinion of Svetlana Arakelian, consequently the information was to be refuted by Svetlana Arakelian and published in “Hayk” newspaper.

Meanwhile, “Hayk” newspaper stopped its issues since mid-summer 2010.

On September 28 Arman Galoyan, by now the correspondent of “Zhoghovurd” newspaper and Lragir.am online publication, released a statement, which considered the court ruling and the whole court proceedings as a clownery. The journalist particularly emphasized that when submitting the suit into consideration after two years of the publication of the contested article, the court disregarded the Part 2 of Clause 1 of Article 8 of the Law “On Mass Communication”. The Article prescribes that the demand on refutation of information can be made within a month after its release. Likewise Arman Galoyan justified his refusal to participate in the litigation. Moreover, the court bound Svetlana Arakelian to publish a refutation in a newspaper which has ceased to exist since July 2010, the statement noted. All the above, according to Arman Galoyan, is supposed to be “either a political intimidation, or premeditated illiteracy”.

## **OCTOBER 2011**

**ON OCTOBER 5** at the plenary session of the **Parliamentary Assembly of Council of Europe** in Strasbourg the **Resolution 1837(2011) “The Functioning of Democratic Institutions in Armenia”** was adopted. The Provisional Version of the Resolution was approved by the PACE Monitoring Committee (co-rapporteurs John Prescott and Axel Fischer) on September 8.

Point 10 of the Draft Resolution dealt with broadcast domain. PACE considered that a genuinely pluralist media environment is an essential condition for the democratic development of Armenia. By welcoming the amended RA Law “On Television and Radio”, which is an improvement over previous legislation, PACE reiterated its call to the Armenian authorities to ensure a pluralist media environment also in practice.

In December 2010 the broadcast licensing competitions were held in Armenia, which were followed by the CoE Committee of Ministers Resolution on closing the examination of the case of “A1+” founder, “Meltex” LLC, against Republic of Armenia on the grounds that the competitions were transparent (Sub-point 10.1). According to PACE, the outcome of the licensing tender had not resulted in a more pluralist media environment and therefore it was not in line with the requests of the Assembly in this regard (Sub-point 10.2).

PACE reiterated its call on the Armenian authorities that amendments should be made to the Broadcast Law in order to ensure that the composition of the National Commission on Television and Radio (NCTR), as well as the Public Television and Radio Council, truly reflect and are representative of Armenian society (Sub-point 10.3). The Law should contain a legal obligation that licensing decisions of the NCTR should be guided by and reflect the need to increase the pluralism and diversity of the media environment in Armenia, the Resolution noted (Sub-point 10.4). A substantially lower barrier for interested groups to enter the media market is an important mechanism to increase the plurality of the media environment. Given the potential of digital broadcasting to increase the number of broadcasting licenses available, the Assembly considered that the authorities should hold, when feasible, a new broadcasting license tender with the explicit aim of increasing the pluralism and diversity of the media environment in Armenia (Sub-point 10.5).

**ON OCTOBER 5** the European Court on Human Rights resolved to communicate to RA Government the application of the **founder of “Haykakan Zhamanak” daily, “Dareskizb” LLC**, related to the violation of the daily’s rights during the enforcement of the state of emergency in Yerevan in March 2008. As it has been reported, since March 1, 2008 a 20-days state of emergency was declared in Yerevan. The decree of the RA President on the state of emergency stipulated, in particular, that “the media publications on state and inner political issues can be made exclusively within official information, released by state bodies”. While censorship was not listed among the restrictions, imposed by the Decree, moreover, according to Article 4 of the RA Law “On Mass Communication”, it is actually prohibited, these days not only in Yerevan, but also all over the country factual pre-emptive censorship was practiced (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2008 on www.ypc.am in “Media Reports” section*).

The suit of “Haykakan Zhamanak” founder versus Republic of Armenia was submitted to ECHR in December 2008. According to the plaintiff, throughout the enforcement of the state of emergency the requirements of Parts 1 and 2 of Article 10 (“Freedom of Expression”) and Article 15 (“Derogation in Time of Emergency”) of the European Convention for the Protection of Human Rights and Fundamental Freedoms were violated. Besides, the founder of “Haykakan Zhamanak” believes that Part 1 of Article 6 of the European Convention (“Right to a Fair Trial”) was also violated, as in 2008 none of its suits was taken into consideration by any court instance of Armenia.

**ON OCTOBER 10 Karen Andreasian, RA Human Rights Defender**, delivered a message to the journalists, in which he announced that will soon address to the RA Constitutional Court questioning **the constitutionality of RA Civil Code provisions on defamation**.

According to the ombudsman, the negative attitude in the journalistic community towards the Civil Code provisions on libel and insult is conditioned by the improper and unfair application of the law by the judges in some defamation disputes. For the protection of freedom of expression, the real need is in the securing of effective public control over the implementation of the law and the administration of justice, considered Karen Andreasian. Namely for this, the ombudsman called the judges to guide by the case law of the European Court of Human Rights, and initiated the Information Disputes Council (*see above*).

On October 13 RA Human Rights Defender appealed to the Constitutional Court questioning the compliance of Article 1087.1 of RA Civil Code (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”) to Article 14, Parts 1,2,3 of Article 27, and Article 43 of the Main Law.

On October 19 the Chief Editors of “Aravot”, “Yerkir”, “Zhamanak”, “Zhoghovurd”, “Haykakan Zhamanak”, “Hraparak”, “168 Zham”, “Chorrord Inknishkhanutiun” newspapers made a statement, assessing the Article 1087.1 of RA Civil Code and its application by courts as unconstitutional. “The number of suits versus print media increases, mainly seeking to stop the activities of newspapers by imposition of large fines, or to compel them to self-censorship,” the statement of the eight newspapers’ heads stressed in particular. The signatories called upon the RA Constitutional Court to suspend the litigations on defamation cases at courts, until the Constitutional Court renders a judgment on this issue.

On October 25 the application of the ombudsman was taken into consideration. The Constitutional Court involved RA National Assembly as respondent in the case.

On November 10 OSCE Representative on Freedom of the Media Dunja Mijatovic in a letter to RA Foreign Affairs Minister Edward Nalbandian expressed concern over the growing number of libel suits filed against Armenian media, and called upon the authorities to further reform the legislation to adequately protect the media in civil defamation cases. “I welcomed decriminalization of defamation in Armenia in May 2010 as a significant step toward ensuring a media-friendly environment. Regretfully since then, almost 30 civil defamation lawsuits have been brought against newspapers, including 11 this year,” said Dunja Mijatovic, noting that in most cases the compensation sought is out of proportion to the damage allegedly inflicted. The compensation awarded in civil libel lawsuits should be proportional to actual damages and should not lead to the closure of a media, which would result in limiting press freedom, stressed Dunja Mijatovic. In the letter to the Foreign Affairs Minister, Dunja Mijatovic said that her Office is ready to assist Armenia in further reforming its media legislation and promoting freedom of the media. As an example, she referred to a training seminar organized in Yerevan on November 1 by the OSCE, to help familiarize Armenian judges with international best practices in defamation cases. “I hope this initiative will help contain the wave of libel suits filed against Armenian media”, OSCE Representative on Freedom of the Media Dunja Mijatovic underlined.

On November 15 RA Constitutional Court confirmed the constitutionality of legislative provisions on libel and insult.

The press release stored on the same day, November 15, on the Constitutional Court website ([www.concourt.am](http://www.concourt.am)), provided clarifications to the ruling, as well as recommendations on the application of Article 1087.1 by judges.

Particularly, according to the Constitutional Court, while defining the size of the moral loss compensation the court should take into account the incomes of the respondent. The financial burden put on the respondent must be proportional and should not adversely influence its activities. Besides, the indemnities should be limited by the compensation of the core damage inflicted by libel and insult to dignity, honor and business reputation, and should be set only in case when the non-material compensation is not enough for covering the damage. Application of non-material compensation should be of priority.

The Constitutional Court underlined that the indemnities should not be imposed for value judgments, as this can result in restriction of freedom of expression: the role of media is broader than merely factual reporting. Media should comment on facts and events to inform the public and should contribute to the discussion of significant public issues.

The Constitutional Court considered that while determining the size of the compensation, courts need to take into consideration the readiness of the respondent to bring apologies, to alleviate the damage, made to the plaintiff’s honor and dignity, through non-judicial procedures, including self-regulation mechanisms.

The Constitutional Court also reminded that the pieces on public figures, or dealing with significant public issues, in which politicians are involved, enjoy a higher level of protection. Therefore, the fact that the respondent is a high-ranked person should not be interpreted to the detriment of the respondent.

According to the Constitutional Court, “libel” and “insult” should be considered as such only if there is a malicious intent to discredit a person.

The Constitutional Court also noted about the need of examining the issue of reducing the maximum size of compensation for libel and insult.

**ON OCTOBER 20** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan took into consideration the suit of the advocate Artur Grigorian versus **founder of “Hraparak” daily, “Hraparak Oratert” LLC**. The reason for the suit became the readers’ comments to “Hraparak” article, “Citizens, Are They Victims of Disloyal Advocates?”, published on August 10, 2011 and stored on [www.hraparak.am](http://www.hraparak.am). In the readers’ comments Artur Grigorian had counted six wordings that discredited his honor and dignity, and evaluated the moral damage for each of them by 3 million AMD. Thus, the overall amount of financial claims to the newspaper makes 18 mln AMD (about \$ 47,000). The court had ruled to put an arrest on the funds of “Hraparak” founder as a measure to secure the suit. On November 7 “Hraparak” founder had petitioned the court for canceling the decision on freezing his accounts. On November 8 the court secured the petition, meanwhile it put an arrest on the property of “Hraparak”.

As of end-2011 the hearings on the case had not started.

## **NOVEMBER 2011**

**ON NOVEMBER 1** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of “Armavia” company versus **“Chorrord Inknishkhanutiun” founder, “Trespassers W.” LLC**. The reason for the suit was the editorial “Did ‘Armavia’ Supply Weapons?”, published in the daily on September 15, 2011. The article, particularly, quoted General Yuri Dominik, Commander of Moldovan National Army, who told that the airplane “IL-76”, which had arrived from Libya to Moldova for a new set of weapons, belongs to “the Armenian civic air company”. The editorial was reprinted in “Chorrord Inknishkhanutiun” from the news online publication [www.Epress.am](http://www.Epress.am). The piece was stored on [Epress.am](http://Epress.am) on September 14, 2011 under the title “Did the Armenian Air Company Supply Libya with Weapons?”, and referred to the Russian “Echo of Moscow” radio station and “Interfax” Russian news agency. “Chorrord Inknishkhanutiun” accompanied the reprint with a photo of an “Armavia” airplane. On September 15 [Epress.am](http://Epress.am) placed the refutation of the “Armavia” press service, which stated that the air company is engaged in passenger transportation solely, and not in airfreight; it had never owned the “IL-76” airplane. On September 16 this refutation was published in “Chorrord Inknishkhanutiun”, too. On the same day a protest action was held in front of the daily’s editorial office: according to the newspaper, it was attended by the employees of companies, belonging to the owner of “Armavia”, major businessman Mikhail Baghdasarov. On September 17 “Chorrord Inknishkhanutiun” once again touched upon the topic, presenting extracts from different foreign sources that had cited the Moldovan General.

The suit of “Armavia” versus “Chorrord Inknishkhanutiun” founder was submitted on September 17. The plaintiff demanded to refute the information as contained in the editorial “Did ‘Armavia’ Supply Weapons?” and discrediting its business reputation, pay off a compensation of moral loss damage of 2 mln AMD (about \$ 5,400).

At the session of December 15 the parties negotiated an amicable agreement, the text of which was published in “Chorrord Inknishkhanutiun” on December 16. The agreement particularly stressed that the plaintiff abandons his financial claims towards the newspaper founder, while “Chorrord Inknishkhanutiun” commits publishing the refutation within a month since the court ruling comes into effect.

The amicable agreement was approved on the December 28 court session.

**ON NOVEMBER 7** RA Administrative Court of Appeal released the ruling on the dispute between **Levon Barseghian, Board Chairman of “Asparez” Journalists’ Club of Gyumri**, and RA State Revenue Committee. The reason for the two-year litigation became the inquiry of Levon Barseghian made on January 18, 2010 for providing information on the 2009 summing up event of the State Revenue Committee, and on the awards of 20 expensive hand watches to the staff members. Approximately 50 mln AMD (about \$140,000) was spent on all this. The Head of “Asparez”, particularly, demanded the list of artists who had participated in the event, the list of the awardees and other data, which can ground the amount spent. The State Revenue Committee refused to grant information, namely after Levon Barseghian had lodged a suit at the RA Administrative Court. On July 1, 2010 the Court revoked the suit, considering that the State Revenue Committee had not violated the RA Law “On Freedom of Information”. The plaintiff contested this decision at the RA Court of Cassation, which on December 27, 2010 annulled the ruling of the court of general jurisdiction and sent the case for new consideration by the same court.

On June 22, 2011 the Administrative Court resolved to bind the Committee to provide with the information requested by Levon Barseghian and to exact 24,000 AMD as a compensation for state duty, paid by the claimant.

This decision was contested by the State Revenue Committee at the RA Administrative Court of Appeal.

On November 7 the Administrative Court of Appeal secured the complaint of the State Revenue Committee partially, ruling to provide the plaintiff with only the part of information - on the awarded employees, and compensate his court expenses of 7,000 AMD.

**ON NOVEMBER 8** the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the two suits versus **the founder of “168 Zham” newspaper, “168 Zham” LLC, and newspaper correspondent Marineh Martirosian**. One of the suits was lodged by Susanna Nazarian, former Director of High School No.2 of Etchmiadzin, the second - by her son Tigran Terterian, pupil at the same school. The plaintiffs contested the article by Marineh Martirosian, “Director Sued the Ministry of Education and Science”, published in “168 Zham” of May 26-27, 2011. The piece dealt with the dismissal of Susanna Nazarian, which had provoked public attention. The article presented critical opinions on the Director, including that “according to Etchmiadzin people, lately the son of the former Director had burnt the School archive”. The plaintiffs demanded to publish a refutation of the information, discrediting their honor and dignity, pay off a compensation for the damage caused by defamation of 2 mln AMD (about \$ 5,200), each. Both of the plaintiffs went into court on July 13, the suits were submitted into consideration on July 15.

At the November 8 session the article author Marineh Martirosian presented the court the audio records of the interviews with the pupils of Etchmiadzin School No.2, their parents, teachers, as well as the letters sent to the editorial office. Besides, the court was notified that the law enforcement bodies have instituted proceedings on the violations revealed by the Ministry of Education and Science at the School.

On November 15 the consideration of the suit of Susanna Nazarian was suspended - until the investigation on the criminal case, instituted upon the piece of “168 Zham”, against her

was finished.

As of end-2011 the hearings on the suit of Tigran Terterian continued.

**ON NOVEMBER 10 “Aravot” daily** published an article “The RA Service of Compulsory Execution of Judicial Acts Knocked at the ‘Aravot’ Doors. The Occurrence with “Aravot” Can Be Qualified as Disrespect towards Media”. In the beginning of the piece, its author, newspaper correspondent Ruzan Minasian reminded about the email, titled “The Court Obligated to Refute”, addressed to the editorial office by Margar Makhsudian, the attorney of the three former teachers of school No.11 - Lilia Margarian, Margarita Ispirian and Liana Simonian. In the letter the attorney informed that in February 2011 the court of general jurisdiction of Malatia-Sebastia administrative districts of Yerevan had considered the suit on the protection of honor, dignity and business reputation of the No.11 School Director versus the abovementioned teachers, and had obliged the latter ones to publish a refutation on the untrue information in “Aravot”. What was going on at the court, how come the daily appears in this litigation, “Aravot” expressed its bewilderment in the story “To Refute, but What”, published on October 14. “Aravot” had not received the ruling of the court, is not a litigation party, thus cannot even inquire the court of the case materials and protocols, the story particularly stressed.

“However, these arguments apparently did not suffice the parties, who appeared from heaven knows where”, the newspaper wrote in the November 10 article, informing that in the evening of November 8 the editorial office had received a document, signed by Lieutenant Colonel T.Torosian, Head of the Malatia-Sebastia Department of RA Service of Compulsory Execution of Judicial Acts. The document noted that the RA Civil Court of Appeal had ruled to “oblige Lilia Margarian and Margarita Ispirian to refute, through ‘Aravot’ daily, the information, discrediting the honor, dignity and business reputation of the M. Melkonian School No.11 and of the third party, Ruzanna Azizian, by publishing a part of the ruling in the daily”. At the same time, the Service of Compulsory Execution suggested the newspaper to notify about the “works on preparing the refutation” within a week.

“What information does the Service of Compulsory Execution exactly imply about? What should we refute? What articles of “Aravot” they refer to? Nothing is clear. We will not carry out the demand of the Compulsory Execution Service, since it is illegal”, emphasized the daily, referring to the relevant provisions of RA Law “On Mass Communication”.

**ON NOVEMBER 14** Vanadzor court of general jurisdiction of Lori region started hearing the suit of Vano Eghiazarian, Elder of Lernapat village, versus **Adrineh Torosian, Vanadzor correspondent of “Hetq” online publication.** “Hetq” was involved in the case as a third party. The reason for the suit on the protection of honor, dignity and business reputation became the piece by Adrineh Torosian, “The Word “Graze” in Address of Village Elder Worth 1 Mln”, published in “Hetq” on August 23, 2011. The article reported about the court session on the lawsuit lodged by the same Elder versus his villager Gevorg Melkonian. The piece particularly told about the material compensation for libel and insult sought from the respondent. Meanwhile, according to Vano Eghiazarian, he had not made any financial claims in the suit. Lernapat Elder assessed the article by “Hetq” correspondent as libel and insult and demanded to refute the information discrediting him, bring apologies and compensate the moral damage of 1 million AMD (about \$ 2,600), as well as the court expenses, the size of which was not specified. The case was taken into consideration on September 17.

As of end-2011 the hearings on the case continued.

It should also be mentioned that abovementioned suit of the Lernapat Elder versus his villager Gevorg Melkonian another media appeared as a third party - **“Zhmanak” newspaper**, specifically, its **founder “Skizb Media Kentron” LLC**. Vano Eghiazarian had contested the critical opinion of Gevorg Melkonian made in his address in the article of “Zhmanak” of September 1, 2010, “Save Us From This Turk”. The plaintiff demanded to bind Gevorg Melkonian to publish a refutation of the slanderous expressions and apologize in “Zhmanak”. On July 8, 2011 the court of general jurisdiction of Lori region secured the suit. The respondent had contested the ruling at the RA Civil Court of Appeal, which revoked the complaint of Gevorg Melkonian in October 26, 2011, upholding the ruling of general jurisdiction.

**The founder of “Zhmanak”** appeared as a third party also in another suit lodged by Vano Eghiazarian versus his co-villager Boris Ashrafian. The matter of the suit was the interview of Boris Ashrafian published in “Zhmanak” daily on September 1, 2010. The piece contained critics about the village Elder. The plaintiff demanded to apologize in “Zhmanak” and compensate the moral damage of 3 mln AMD (about \$ 8,100). The hearings on the case started on February 9, 2011 at the court of general jurisdiction of Lori region. On July 22, 2011 the court partially secured the suit binding Boris Ashrafian to publish apologies in “Zhmanak” and compensate the damage of 300,000 AMD. Both of the parties had contested the ruling at the RA Civil Court of Appeal, which had revoked them on October 5, 2011.

The same Lernapat Elder appeared as a plaintiff in two other cases where the third party was the **founder of “Aravot” daily, “Aravot Oratert” LLC**. The two suits on protection of honor, dignity and business reputation of Vano Eghiazarian were lodged versus his villagers Boris Ashrafian and Fahrad Voskanian. On August 19, 2011 “Aravot” issued a piece “Who Slanders Whom?”, which reported about the August 18 protest action against the Elder, held by Lernapat villagers in Yerevan in front of the RA Government. The piece also cited the villagers’ critical expressions about their Elder, including the ones of Boris Ashrafian and Fahrad Voskanian. Both suits were taken into consideration by court of general jurisdiction of Lori region, but assigned to different judges. As of end-2011 the hearings on the suits continued.

**ON NOVEMBER 17** Gavar court of general jurisdiction of Gegharquniq region started hearing the suit of Gegharquniq Governor Nver Poghosian versus **founder of “Zhoghovurd” daily, “Editorial Office of ‘Zhoghovurd’ Newspaper” LLC, and the newspaper’s correspondent Anna Torosian**. The reason for the suit became the article “The Governor Took A Bribe”, published in “Zhoghovurd” on October 7, 2011. The plaintiff demanded to refute the information discrediting his honor and dignity, and pay off 2,5 mln AMD (about \$ 6,500), of which - 2 mln as moral damage compensation and 500,000 as court expenses.

On November 28 “Zhoghovurd” daily informed that its founder has lodged a counter action on the protection of honor, dignity and business reputation versus the Governor of Gegharquniq region Nver Poghosian. This information was reported in the editorial, placed on “Zhoghovurd” website, [www.armlur.am](http://www.armlur.am). As the editorial of “Zhoghovurd” noted, on the hearings that started on November 17 the attorneys of Nver Poghosian announced that the newspaper had no right to publish such a piece, as “the Governor is a public figure”. Meanwhile, “Zhoghovurd” stressed that the Governor had not directly addressed the newspaper requiring a refutation. Subsequently, the Governor aims to cause a financial damage to the newspaper and curtail its right to free dissemination of information,

“Zhoghovurd” concluded. Such a matter of facts and the public announcements of Nver Poghosian regarding the contested piece were assessed as libel and insult by “Zhoghovurd”. In its counter claim the daily’s founder demanded from the Governor a moral loss compensation of 1 luma (the smallest Armenian currency) and apologies, the editorial of “Zhoghovurd” emphasized.

As of end-2011 the hearings on the case continued.

**ON NOVEMBER 29** court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan started hearing the suit of Benik Harutiunian, Director of RA Balneology and Physical Medicine Research Center, versus **founder of “Zhoghovurd” daily, “Editorial Office of ‘Zhoghovurd’ Daily” LLC**. The reason of the suit became the piece “The Doctor’s Adventures in the Goldfields”, published in “Zhoghovurd” on September 9, 2011. The article quoted the US citizen Nuneh Serobian, who alleged that she had a common business with Benik Harutiunian, and he refused to return her more than \$ 200,000 she had invested. The plaintiff demanded to oblige the newspaper to refute the information discrediting his honor and dignity, and pay him off 2,2 mln AMD (about \$ 5,800), from which 2 mln - as a moral damage compensation and 200,000 - court costs.

As of end-2011 the hearings on the case continued.

**ON NOVEMBER 30** RA Administrative Court secured the suit of **Committee to Protect Freedom of Expression (CPFE)** versus RA Ministry of Health. On February 11, 2011 the CPFE inquired the Ministry on information about journalists, who had been accredited or refused of accreditation. Not receiving an answer, on March 25 CPFE addressed the Court, demanding to hold the actions of the Ministry unlawful and bind it with replying to the inquiry. The suit was taken into consideration on March 29, the hearings started on July 9.

On the November 30 Administrative Court ruling the actions of the Ministry were held unlawful. It should be also noted that during the litigation the plaintiff refused his other demand, as after filing the court Ministry of Health provided CPFE with the inquired information.

## **DECEMBER 2011**

**ON DECEMBER 5** the **National Commission on Television and Radio (NCTR)** imposed a fine of 1 mln AMD (about \$ 2,600) on **“Armenia” TV channel**. The reason for applying the penalty was the excess of commercial advertising volume by “Armenia” during one airtime hour (the limit prescribed by law makes 14 minutes). In the December 5, 2011 interview to Aravot.am the NCTR Chairman Grigor Amalian noted that National Commission was notified about this violation by one of the TV companies, which “had provided to us an unofficial complaint” with the results of its monitoring. At the same time, the NCTR Head found improper to mention the name of the TV company.

The fact that the regulatory had fined the broadcaster for exceeding the legislative limits of advertising is favorable. Meanwhile, it is noteworthy that throughout years Yerevan Press Club and other NGOs, engaged in media researches, including TV air monitoring, have persistently fixed and voiced that the Armenian broadcasters break the legal provisions on advertising, as well as other legislative requirements. However, NCTR has never responded to these data anyhow. Hopefully, things have started to move: the NCTR



sanction towards one TV company is not selective, but it will become a civilized practice towards all the offenders of broadcast legislation. (*Herein a comment from YPC Weekly Newsletter, December 2-8, 2011 is presented.*)

**ON DECEMBER 5** Vanadzor court of general jurisdiction of Lori region started hearing the suit of Tereza Shakhverdian, Dean of Pedagogic Faculty of Vanadzor State Pedagogical Institute versus **Adrineh Torosian, correspondent of “Hetq” online publication.** “Hetq” was involved in the case as a third party. Tereza Shakhverdian had contested the piece “Unhealthy Passions at Vanadzor Pedagogical Institute”, published in “Hetq” on May 13, 2011. On September 8 the Dean addressed the court, demanding to refute the information discrediting her honor and compensate the moral loss caused by defamation in the amount of 2 mln AMD (about \$ 5,200). The case was taken into consideration on September 12.

At the December 5 session the plaintiff presented a supplement to the suit, in which the sum of the financial claims versus Adrineh Torosian was reduced to 200,000 AMD. The supplement also contained the refutation text, which should be published in “Hetq”. Besides, Tereza Shakhverdian required that Adrineh Torosian bring apologies in “Hetq”. The plaintiff reasoned the reduction of the moral loss compensation by the November 15, 2011 ruling of RA Constitutional Court, which prescribed recommendations for judges on the application of Article 1087.1 of RA Civil Code, “Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation” (see above).

The contested “Hetq” piece also became a matter for another court litigation - the case on the protection of honor, dignity, and business reputation of Gurgen Khachatryan, Rector of Vanadzor State Pedagogical Institute, versus Lousineh Ashughian, former professor of the same Institute. As third parties in the trial appear “Hetq” and **ATV TV company**, on the air of which the respondent had made some negative allegations about the Vanadzor Institute Head on July 15, 2011. The suit of Gurgen Khachatryan was being considered by the same court of general jurisdiction of Lori region.

As of end-2011 the hearings on the case continued.

**ON DECEMBER 6** the court of general jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan continued hearing the suit of Paruyr Hayrikian, Chairman of “National Self-Determination” Union versus Gegham Galstian and Norik Petrosian, representatives of Communist Party of Armenia. **The founder of “Hraparak” daily, “Hraparak Oratert” LLC**, was involved in the case as a co-respondent. The reasons for the suit became the controversy between the NSD Union leader and the communists, unfolded in “Hraparak” on July 2011. In the suit on the protection of honor, dignity and business reputation Paruyr Hayrikian claimed from Gegham Galstian and Norik Petrosian a moral loss compensation of 2 mln AMD (about \$ 5,200), while from “Hraparak” - to publish a refutation and the operative part of the court ruling. The suit was submitted into consideration on August 30, the hearings started on October 27.

At the December 6 court session the plaintiff withdrew his claims versus “Hraparak” founder. The court secured the petition. Thus, the demands towards “Hraparak” were withdrawn.

**ON DECEMBER 8**, at about 21.30 in one of the highway tunnels of downtown Yerevan, where a major accident had happened, **photojournalist Gagik Shamshian** was attacked. According to Gagik Shamshian, noticing that he is shooting the site, three young men, who

were in one of the crashed cars, assaulted and swore at him, trying to take away the photocamera. As Shamshian emphasized, he managed to keep the camera and even shoot the assaulters and the car number. The skirmish was over after the intervention of the police, who had arrived to the site.

As the communique of the RA Police, stored on [www.police.am](http://www.police.am) later on December 8, reported, the young men were detained and conveyed to police. The men “have displayed outmost disrespect to the citizens around, have disturbed the public order for over 15 minutes, cursed, gave blows and caused physical injuries to the photojournalist Gagik Shamshian, who was carrying out his professional duties”, the RA Police clarified.

Kentron Police Department of Yerevan had instituted criminal proceedings upon the case on Articles 164 (“Impeding legitimate professional activities of a journalist”) and 258 (“Public disorder”) of RA Criminal Code.

According to Gagik Shamshian, the police had charged only one of the detainees, who were held at the psychologic dispensary. In this regard, the journalist noted that he had revoked his claims versus the detainee.

**ON DECEMBER 8** RA National Assembly adopted in second hearing and finally the **Draft Law “On Introducing an Amendment and a Supplement to RA Law ‘On Television and Radio’”**. The Broadcast Law was supplemented by Article 5.1 committing the TV companies to daily broadcast minimum one program for children and one news program followed by sign language translation or subtitles in Armenian.

Before, only the Public TV and Radio Company was bound with this obligation; with the introduction of the amendment it also refers to those private broadcasters which have news/children programs in their schedule.

**ON DECEMBER 9** upon the decision of the newly elected Speaker of Armenian parliament Samvel Nikoyan, **the Order of Journalists’ Accreditation in RA National Assembly** was modified. Specifically, the Clause 21 was amended: from now on the journalists accredited in the parliament were again permitted to visit the NA on workdays, as well as the events held on the weekends, which are notified by the RA NA Department on Public Relations and Media. Earlier, the Order, approved on August 21, 2009 by the then-Chairman Hovik Abrahamian, stipulated the access of accredited journalists to National Assembly only during the sessions of the parliament and the Standing Committees, briefings, press conferences, parliament hearings, as well as other events announced by the NA press service.

Likewise, the restriction that significantly curtailed the possibility of covering the activities of the MPs, was abrogated. At the same time, the Order still contained provisions that concern the media community, particularly on the conditions of accreditation and its anticipatory suspension, the responsibilities of journalists (*see details in “On Freedom of Speech in Armenia” Yerevan Press Club report for 2009 on [www.ypc.am](http://www.ypc.am) in “Media Reports” section*).