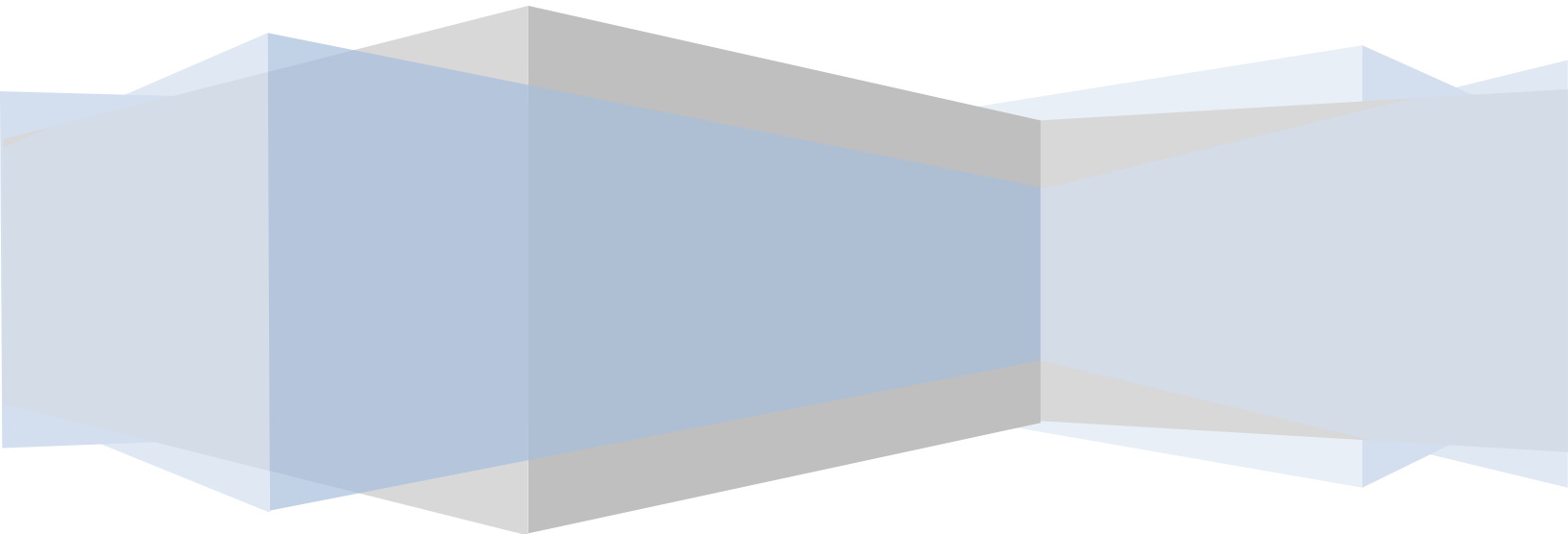




EASTERN PARTNERSHIP  
Civil Society Forum

# Report on the State of Media in Eastern Partnership Countries

November 2015



## SUMMARY

This publication has been developed as part of the European Neighborhood Policy (ENP) East Media Freedom Watch Project conducted from July through October 2015 as a follow up to the project with the same title implemented from March 2013 to March 2015 by Internews Ukraine in partnership with media nongovernment organizations (NGOs) in Armenia, Azerbaijan, Belarus, Georgia and Moldova. Its aim was to support the freedom of the media by raising regional and international awareness of the situation with media freedom and journalists' rights in these six states. The project highlighted and regularly analyzed all events and processes taking place regarding media freedom and made the target audience in the Eastern Partnership (EaP) members and other countries aware of these developments. Journalists' working environment and violence against them, censorship, transparency of ownership in media, relationships between journalists and politicians, the quality of media legislation and many other topics were the issues the project team focused on while managing the [www.mediafreedomwatch.org](http://www.mediafreedomwatch.org) web portal.

In addition to maintaining the web portal, the project team contributed to developing this joint report on the current state of the media in EaP countries. The report presents an overview of the media landscape in each country and assesses the latest developments that affect the good functioning of the media. The information is summarized in the following sections: Policy, Practice, Broadcasting, Internet and New Media, Conclusions and Recommendations.

The ENP East Media Freedom Watch Project 2015 was implemented by the Independent Journalism Center (Moldova), in partnership with the Yerevan Press Club (Armenia), Yeni Nesil Union of Journalists (Azerbaijan), Belarusian Association of Journalists (Belarus), Georgian Charter of Journalistic Ethics (Georgia), and Internews Ukraine (Ukraine) as part of the Support to the Activities of the Eastern Partnership Civil Society Forum Project implemented by the EaP Civil Society Forum Secretariat.

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## ARMENIA

### POLICY

The activities of mass media in Armenia are regulated by the laws on Television and Radio, on Mass Information, on Freedom of Information, on Copyright and Related Rights, on Advertising, the relevant provisions of the Republic of Armenia (RA) Electoral Code regarding media work during elections in addition to a number of other laws and regulations.

On October 15, 2015, the RA government approved the procedure for registration, classification and storage of information processed by or given to the owner of information as well as for the issuance of copies of information by government agencies and organizations and local government authorities. The RA Law on Freedom of Information adopted 12 years ago (in September 2003) was one of the few progressive documents that was greatly appreciated by international experts. Meanwhile, since the adoption of the law, the journalistic community has insisted on the need to draw up the regulations that will sustain its implementation.

The most fundamental problems of media legislation remain as yet unresolved. First of all, the journalistic community and international organizations continue to criticize the RA Law on Television and Radio. The need to overhaul the broadcasting legislation in accordance with recommendations of the OSCE, the Council of Europe and the media expert community of Armenia is still urgently needed to ensure broad pluralism of information.

The Yerevan Press Club, the Centre for Media Initiatives (formerly Internews Armenia) and the Committee to Protect Freedom of Expression have developed and submitted to Parliament a new package of amendments to the broadcasting legislation which, in addition to conceptual reforms, imply a streamlined process of transition to digital broadcasting; however, the discussion on the law's reform has been delayed for the last five years with the RA National Assembly passing draft amendments to the Law on Television and Radio on June 19, 2015 instead which have postponed the complete transition to digital television for the second time, now till January 1, 2016. Moreover, there are grounds to believe that this extension will not be the last one.

### PRACTICE

**Court practice.** In 2015, there were several court judgments that might have set precedents. On February 18, the RA Court of Appeals witnessed a hearing on the complaint of representatives of 16 NGOs that had appealed the decision of the District Court of general jurisdiction on a suit against the founder of *Iravunk* newspaper (Iravunk Media LLC) and Chief Editor Hovhannes Halajian. The subject matter of the case was related to an article by Halajian entitled "They serve for international homosexual lobbying: the black list of the enemies of the Nation and State" (*Iravunk*, May 17, 2014) in which he named "the enemies of the Nation" who "in an aggressive manner try to impose their rules of the game in our country." The author of the

publication called for such people to be treated with “zero tolerance,” and in particular to be removed from working in government agencies. The Court of General Jurisdiction not only did not uphold the plaintiffs’ claim to retract the discrediting information and to be paid a compensation for libel and defamation but also ordered the plaintiff to pay defendants lawyers’ fees. On March 5, 2015 the Court of Appeals also dismissed the plaintiffs’ complaint.

The lawsuit was filed by three representatives of the Nor Serund (New Generation) NGO who appeared on “the black list of enemies of the Nation.” They asked the court to oblige the defendants—Hovhannes Halajian and Chairman of the Editorial Board Hayk Babukhanyan—to publish a retraction and to recover compensation for damages caused by libel and defamation at the rate of 3 million drams (about 5,400 euros). On May 14, 2015, the Court of General Jurisdiction upheld the NGO representatives’ claim in part, reducing the amount of compensation for damages to 250,000 drams (476 euros) for each of the plaintiffs.

There were another two precedent-setting cases that began in 2014 and continued in 2015. On April 8, 2015, the RA Civil Court of Appeals examined the protest of the founder of the 1in.am news portal (Skizb Media Kentron LLC) who appealed the decision of the Court of General Jurisdiction of December 17, 2014 on the suit of the Investigative Journalists NGO. The reason for the case was eight publications in Hetq.am, an online edition of Investigative Journalists, reprinted by 1in.am without proper reference to the source. The plaintiff demanded that the founder of 1in.am supply all the publications in question with appropriate references and pay compensation. The Court of General Jurisdiction ordered the defendant to pay compensation and to cover court costs. The court did not issue a decision on another claim of Investigative Journalists since during the course of months-long trial 1in.am had supplied the publications with adequate references to the source. The founder of 1in.am challenged that decision before the Court of Appeals which reduced the amount of the state duty, leaving in force the other decisions issued by the Court of General Jurisdiction. The court decision on the case set a precedent since it was the first in Armenian litigation between the media after amendments to the RA Law on Copyright and Related Rights adopted in September 2013.

On July 24, 2015, the criminal case against the Director of Start-Media LLC (founder of iLur.am) and editor of iLur.am Christine Khanumyan was terminated by the decision of the Regional Prosecutor’s Office. The case had been brought on charges of “wilful non-compliance with the court order” of June 26, 2014 which had ordered *Hraparak* newspaper and iLur.am to disclose their source of information. On May 9, 2014, *Hraparak* and iLur.am published anonymous information about the conflict between Colonel Vardan Nadaryan, the head of the Shirak Regional Police, and brothers Arthur and Rafael Alexanian, the former a world-famous wrestler. According to the article, Nadaryan did not like the glaring headlights of the car driven by the brothers; he jumped out of his car and pistol whipped Arthur. After the incident, the Armenian Special Investigative Service (SIS) tried to obtain the source of the article from the editor of *Hraparak* who refused to reveal it, so they applied to the court and gained their object. The Court of Appeals dismissed the protest against the decision of the Court of General Jurisdiction.

*Hraparak* then applied to the Court of Cassation which also dismissed its appeal on November 28, 2014. In the end, an SIS investigator demanded that *Hraparak* disclose its source of information, but the newspaper said they had no information about the source. The investigative body did not take any further action against the newspaper but instead opened a criminal case against the head of iLur.am which in turn refused to execute the decision of the court.

The founders of *Hraparak* (June 1, 2015) and iLur.am (July 2, 2015) applied to the RA Constitutional Court to examine the constitutionality of legislative acts that specify conditions for information disclosure. The Constitutional Court confirmed the constitutionality of the provisions of the current legislation but at the same time acknowledged that the circumstances of the case were not supposed to force the media to disclose sources of information. Accordingly, the court decisions were subject to revision. In other words, the Constitutional Court made it clear that requirements to disclose the source of information could be seen as a conscious policy of the relevant authorities to restrict the freedom of expression in the country.

**Violence and obstruction of journalists' professional activities.** The trend towards more frequent cases of law enforcement agencies impeding the professional activities of journalists in Armenia appears to have continued in 2015; however, police misconduct against media representatives in the vast majority of cases remained unpunished. The most vivid illustration of the vulnerability of journalists carrying out their professional activities and the misconduct of the power structure could be the incident on June 23, 2015. When dispersing a protest rally against the increase in electricity tariffs organized by the "No to Robbery!" initiative, the police used violence against journalists and impeded their professional activities by breaking their photographic equipment and destroying footage. These events caused a sharp reaction in the Armenian journalistic community and from international organizations. Thus, Dunja Mijatovic, the OSCE Representative on Freedom of the Media, called on the Armenian authorities to "investigate those incidents immediately and take steps to ensure a respectful attitude to the media on the part of law enforcement agencies."

On July 2, 2015, the SIS opened a criminal case on the abuse of authority with the use of violence, weapons or special devices and also obstruction of the lawful professional activities of a journalist committed by an official using his official position and premeditated destruction or damage of property. As of the end of October, however, the investigation into the incident had led nowhere despite numerous testimonies of victims and witnesses.

**Access to information.** In general, the existing Law on Freedom of Information provides the necessary foundation for the realization of the right of journalists to obtain information. In practice, however, media representatives in some cases face different obstacles, e.g., incomplete disclosure of information requested, extensions of time limits prescribed by the law and so on.

On October 15, 2015, the Armenian government approved a procedure for registration, classification and storage of information processed by or given to the owner of information, as

well as for the issuance of copies of information by government agencies and organizations and by local government authorities. It is hoped that the adoption of the procedure will improve the implementation of the law on Freedom of Information (see the section on Policy).

**Censorship and self-censorship.** Censorship in Armenia is prohibited by law, but there are manifestations of hidden censorship. A particular example of hidden censorship in the form of government abuses of regulatory and control functions would be the politically motivated results of broadcast licensing competitions. Self-censorship and editorial censorship are also a daily practice. There are numerous incidents including the dismissal of journalists that demonstrate the existence of definite boundaries between what is "allowed" and "not allowed" in most media outlets. They are particularly noticeable in television, one illustration of which in particular is the radical reduction in live broadcasts. This trend also continued in 2015.

**Monopoly economic conditions.** Almost 12 years ago, the state through its institutions abdicated its role of proprietor in the Armenian media market. Since then, state monopolies have not been an issue, but under the current legal framework the transition to digital broadcasting scheduled for January 1, 2016 implies the existence of only one digital broadcasting network operated by a state-owned company. Accordingly, if in the near future some necessary legislative amendments stipulating the presence of private multiplex operators are not introduced, there will be grounds to speak about the monopolization of broadcasting by the state.

Monopolistic trends are currently present among private broadcasters. Legal mechanisms created to ensure fair competition in the media industry are ineffective because of the dependence of regulatory authorities and their "policy of non-interference" in the activities of companies close to the government. In particular, the existence of the PanArmenien Media Group Holding that brought together several TV channels under one roof is in direct conflict with the legislation prohibiting the possession of more than one channel in the same area of broadcasting. In recent years monopolization has also affected the measuring of media audiences and advertising distributors.

The development of the media industry has significantly slowed as a result of the economic crisis. In particular, in 2015 the economy and information sphere of the country have been adversely affected by the implementation of sanctions on Russia by the West.

## ***BROADCASTING***

In 2015, the ongoing world situation of geopolitical confrontation caused a sharp strengthening of the elements of an information war; television has confirmed its role as a powerful propaganda tool. National broadcasters have not had the greatest influence on shaping public opinion in Armenia and improving citizens' knowledge of international life. Casual, indirect and sometimes indifferent Armenian media coverage of events in Ukraine and other foremost concerns in world politics have not satisfied the audience that has chosen the most affordable

alternative: Russian federal TV channels. As a result, the propaganda of another state has become one of the most important political factors in Armenia.

Under these conditions, the importance of reforming the Law on Television and Radio with a particular optimization of broadcast policy has become an important issue. The slowdown in this area (see the Policy section) remains the main problem of the Armenian media industry.

Public Television of Armenia (PTA) has virtually left the stage as an important institution that can offer its audience diverse and high-quality news coverage of current affairs. The authorities who treat state-run and public television as one of the main tools for self-aggrandizement are now successfully solving this problem by means of controlling private channels. PTA is increasingly focusing on cultural and educational programs which is positive in itself, but this comes at the expense of a substantial reduction in news and social and political output which in turn means ignoring the information requests of the audience.

**Access to the airwaves.** In general, both the authorities and the opposition have access to television. This is evident in the promotional campaign initiated on October 10, 2015 before the referendum on amendments to the Constitution to be held on December 6. The preliminary results of the Yerevan Press Club's monitoring of broadcast media coverage of this campaign suggest that the letter of the relevant law was mainly observed. At the same time, however, the professional tasks of providing the widest variety of opinions and positions and of ensuring more informed and conscious voting choices by citizens were insufficiently carried out.

### *INTERNET AND NEW MEDIA*

According to the 2015 Freedom on the Net report published by Freedom House, a human rights group, Armenia is the only Commonwealth of Independent States member state with free Internet. According to the report, the level of Internet penetration in Armenia continues to improve along with the stability of Internet infrastructure and relatively few restrictions on online content. Internet penetration stood at 46% when the report was published.

Armenian network users have free access to all Internet resources; mobile Internet has been gaining more and more popularity. Although the Armenian government generally refrains from blocking or removing online content, in May 2015 a satirical video on YouTube of the police response to protests in Yerevan was removed. In March 2015, Parliament proposed amendments to the Law on Personal Data Protection aimed at strengthening the protection of privacy by establishing an authorized body to oversee the decisions taken by the government regarding access to personal data. This initiative has been discontinued so far.

In 2015 there were no cases of persecution for social site activity, and according to online activists, the situation in the country relating to their activity can be described as satisfactory.



## **CONCLUSIONS**

In general, media freedom in 2015 has remained close to the same level as in 2014. The decrease in the number of court cases on defamation in the media can be considered as a positive trend. The ruling of the Constitutional Court has withdrawn the threat of prosecution of journalists for non-disclosure of information sources; however, the lack of progress in reforming broadcasting legislation and tackling impunity for obstructing the professional activity of journalists by the authorities has been hindering the development of the media industry and the formation of guarantees for freedom of expression. The effects of the manipulative content of the Russian media on the Armenian audience and the political atmosphere in the country have become a challenge for the Armenian media community in 2016. This problem tends to be aggravated in the light of the expansion of Armenian propaganda projects with the same orientation and the lack of adequate initiatives on the protection from information viruses in the domestic market.

## **RECOMMENDATIONS**

Public authorities should speed up the adoption of comprehensive amendments to the broadcast legislation meeting the needs of the digital switchover and changes in the political, economic, social and technological realities in the media industry.

Civil society organizations should exert stronger internal pressure to overcome the impunity of representatives of law enforcement entities hampering the professional work of journalists.

Local and international institutions should consult and develop with other EaP countries a joint concept to confront the propaganda war.

## **AZERBAIJAN**

### **POLICY**

There are articles in Azerbaijan's Constitution defining the main principles of media activity in the country and guaranteeing freedom of speech and thought and the right to the free exchange of information. The legal framework for mass media in addition to the Constitution includes laws on TV and Radio Broadcasting, on Public Television, on Mass Media, on Access to Information, as well as a number of regulations. Most of these laws were reviewed by European organizations, and by the time they were passed by Parliament had been found to comply with international norms. However, recent amendments and additions to the laws have caused serious concerns among local experts and international organizations.

The Law on TV and Radio Broadcasting stipulates that the broadcasters' work is guided by the principle of creative and professional independence. Broadcasting is the subject of special

authorizations (licensing) issued by the National Council for Television and Radio (NCTR) for a term of six years. Should the terms of license or other provisions of the law be infringed, a judicial decision may suspend broadcasting for a term of up to seven days. Courts of justice are also entitled to cancel any license should it be established that a TV or radio company (i) provided misleading information in order to obtain it, (ii) did not start broadcasting within six months after issuance of the license, (iii) called openly for the violent overthrow of the government or (iv) threatened the country's integrity and security by stirring up ethnic, racial and religious strife, mass unrests or terrorism.

According to the Law on Public TV and Radio Broadcasting, the public TV and radio broadcaster ITV enjoys the status of an autonomous legal entity. The government ensures it with a limitless and free license and broadcasting frequencies. ITV receives government funds and may also have other sources of funding including subscriptions, sponsorships, donations and income from advertising or sales of their own products.

In 2015, the country switched to digital broadcasting although analogous broadcasting is still maintained.

The Law on Mass Media adopted in 1992 and updated in 1999 guarantees freedom of information and prohibits government censorship. The freedom of mass media can be constrained only in an emergency. In any other circumstances, any restrictions on the dissemination of media products is not allowed unless there is a due decision of the court. The law finds it inadmissible to abuse the freedom of information. Mass media activities may be temporarily suspended or terminated by a court should some significant infringements be revealed. The law also stipulates journalists' responsibility for abuse of mass media freedom. The restrictive norm introduced by law in 2010 stipulates, "Except in cases of investigative work, personal surveillance, and video and/or photo footage thereof, voice recording by representatives of mass media or other parties without one's consent or in spite of one's protests [...] shall be grounds for holding them liable in the proper legal manner." An amendment to the Law on Mass Media made by the Parliament of Azerbaijan on 16 December 2014 entitles the executive authorities to legally shut down any mass media entity should it be found that it is illegally funded by foreign government agencies, individuals or companies. The same right is offered to government authorities if a mass media institution is twice sued for disseminating "biased information" during a year.

There is no separate bylaw in Azerbaijan to regulate the activities of online media; however, the main Definitions section of the Law on Mass Media stipulates that the Internet is a form of mass media. Therefore, all legal procedures concerning rights and duties of mass media have a direct relation to Internet.

The Law on Access to Information ensures the right of everyone to receive information from any public authority, municipality, legal entity or individual in public service, belonging to or created by the state, as well as information owned by legal entities dominating the market of goods and services that are natural monopolies. Responses to information requests shall be offered within seven days or, should it prove necessary, within 24 hours. The law distinguishes

between “open access” and “restricted” information. Access to data restricted by law is of two types: secret (state secret) and confidential (office secret, professional, commercial, investigative or judicial secret, personal data). As of June 2012, information on founders (shareholders) of legal entities and their equity shares also constituted a commercial secret which is a big obstacle to journalists’ investigations of corruption cases.

According to the Criminal Code (CC) of Azerbaijan, defamation (libel) in mass media is a criminal act. On 14 May 2013, the Parliament of Azerbaijan made an amendment to the CC according to which Internet resources are now also criminally liable for defamation.

### **PRACTICE**

As studies from 2013 to 2015 demonstrate, the important problems in this field are related to the application of this legislation in practice. The main concern is the large number of journalists and young social network activists detained in jails. Although charges against them are almost never related to their professional activities, many people believe that those journalists are prosecuted for political reasons with the implied involvement of the authorities. In their numerous petitions to the Parliamentary Assembly, to the Committee of Ministers of the Council of Europe and to other organizations, the civil activists of Azerbaijan declare that in this manner the authorities are attempting to intimidate critically minded journalists and to pursue the cultivation of self-censorship among them.

**Physical attacks, threats, blackmailing, arrests and legal prosecution of journalists.** The number of physical attacks on journalists has declined compared to the early 2010s. Society, however, is concerned with the fact that the government still has not undertaken due measures to identify and punish offenders. March 2015 was the tenth anniversary of the assassination of Elmar Guseinov, the Chief Editor of *Monitor* magazine. On 20 November 2015, it will be four years since the assassination of Rafik Taga, a publicist. These crimes have still not been solved.

The year 2014 turned out to be record breaking in the entire post-Soviet history of journalism in Azerbaijan for the number of media workers and social networks activists arrested with over 10 journalists arrested and sentenced including blogger Omar Mamedov, Rasul Jafarov (a journalist and founder of the Human Rights Club), Seymour Hazi (a correspondent of *Azadlyg* newspaper and presenter on the Azerbaijan Saaty show) and Hadija Ismailova (a well-known investigative journalist). In November 2015, legal proceedings were started against Rauf Mirkadyrov, a famous journalist and employee of *Zerkalo* newspaper who was arrested in April 2014.

Courts of justice in Azerbaijan are frequently used as instruments of pressure on journalists and media. Many such processes are initiated by representatives of authorities or large businesses. It is worthwhile to mention, however, that Azerbaijani courts have not registered any infringements on the principle of confidentiality of information sources. Courts almost never issue not guilty verdicts to media and journalists and almost never sustain complaints about the actions of the authorities.

Legal claims in cases of defamation, most of which are initiated by public servants and representatives of large businesses, in most cases end up with awards of very high fines as a compensation for moral damage. Opposition media usually are brought to the court as defendants. In 2013, *Azaldyg* newspaper was sanctioned for offending the human honor and dignity of the Head of Baku Subway and director of the country's biggest trade center with penalties of 62,000 euro. As reported by the International Presidents' Meeting, in March 2014 the courts in Azerbaijan had over 25 media defamation cases on trial with public figures, politicians and servants and leaders of large enterprises related to the authorities as claimants in all of them.

**Access to information.** In their daily routines, mass media outlets and journalists are challenged by problems of access to official information. Such practices, however, are not universal: some public authorities offer complete and timely answers to queries in most cases while many other official institutions mostly ignore journalists' requests. Some ministries make decisions to limit the access of journalists to information. Problems of access to official data are not limited to just cases of executive authorities' illegal refusals to respond to information requests: Journalists' rights to access information are infringed both by the courts and the legislature (Parliament).

**Censorship and self-censorship.** Because official censorship was abolished in Azerbaijan in 1998, there are no public agencies applying preliminary censorship. There are no reported cases of bans on printing newspapers, refusals to print or disseminate a mass media source for ideological reasons or of confiscations of the full number of printed copies or part of them from 2013 to 2015, except in Nakhchivan and Ganja. There are some taboos for government, pro-government media and TV and radio channels such as criticism of the president and the army. We should point out the very high level of self-censorship practiced by almost every media outlet in Azerbaijan as one of the most negative phenomena restricting freedom of mass media. An example of such self-censorship was the refusal of the public station and of every single private TV channel in the country to participate in the pre-election campaign in the autumn of 2013. This increasing self-censorship among journalists is fostered by many factors: political (severe sanctions including for defamation stipulated in the laws), economic (threat to lose one's advertisers or be deleted from the government financial support program) and judicial (groundlessly high fines). Administrative resources are also used for the same purpose. Frequent threats, summons by law enforcement agencies and phone-tapping cases also aim to foster a climate of fear among journalists. As stated in numerous reports by human rights organizations, such measures are often applied to activists of social networks as well.

**State monopoly and economic conditions.** The government applies different methods to keep most mass media outlets and major editorial bodies under control. Mass media sources are not transparent in what concerns their property (owners, sources of income) which is an obstacle for applying anti-monopoly legislation and does not help avoid the concentration of mass media in the hands of a single political group.

Given these circumstances, mass media organizations in Azerbaijan are unable to function without political or financial support from a third party. The advertising market is poorly developed. Public agencies place their announcements and ads in loyal media only, and they compel large businesses to do the same. There is a selective approach to media when it comes to economic issues and to enabling a business environment for them. The government uses public support programs for protectionism and for subjugating independent mass media.

### ***BROADCASTING***

In the context of the rapid technical development of telecommunication systems, television and radio journalists of Azerbaijan are still concerned with the dependence of all broadcasters on the authorities. Licensing is mandatory not only for on-air broadcasters but also for cable broadcasters. Public television is a formality. Its shows are almost identical to the shows of commercial channels.

A low level of pluralism, a lack of intense debates and biased coverage of social and political events are typical features of Azerbaijani TV channels that become especially marked during important political campaigns. There are no private radio channels in the regions. Since 2002, the NCTR has failed to publish the list of free frequencies available for broadcasting in Azerbaijan, although the law requires it to publish this information in mass media annually.

### ***INTERNET AND THE NEW MEDIA***

Internet resources and online journalism have grown rapidly in the country. Internet versions of newspapers and magazines have at least 7 to 10 times more readers than their printed versions. According to official data, more than 70% of the population uses the Internet—50% of them have broadband access—while Facebook users exceeded 1.25 million persons. The current laws and bylaws in the country do not yet present any serious threat to the freedom of the Internet; however, MPs' frequent urges to make these laws more rigorous and to establish a public entity to regulate the Internet is a big concern especially in the light of numerous cases of prosecution and the administrative and judicial punishment of bloggers and critically minded Internet activists.

There is no monopoly on Internet services although the market is dominated by public companies. There are cases when access to some Internet sources and online media is blocked without any evidence that this is being done by the authorities, however. High prices for Internet-services are a big obstacle to access for some. At the same time, one should note that prices have been decreasing recently.

### ***GENERAL CONCLUSIONS AND RECOMMENDATIONS***

Research has demonstrated the gradual degradation of Azerbaijan's legal framework on mass media in from 2010 to 2015. Another threat to freedom of speech and media in the country is a too liberal interpretation and application of laws by executive and judicial authorities. Thus, there are two most challenging issues today: 1) a growing number of legislative procedures

groundlessly restricting freedom of speech and journalism; 2) arrests and judicial prosecution of those journalists who criticize the government.

The main issues raised by international organizations in their dialogue with the Government of Azerbaijan are related to the question of freedom of speech and freedom of media; however, the authorities in Azerbaijan do not listen to those demands and requests and state that the laws of the country fully comply with international standards and that journalists and bloggers are arrested only for specific offences unrelated to their professional activities.

Much wider reforms are required to improve the situation of the freedom of speech and media in Azerbaijan legally, judicially and economically. Only such reforms can free mass media outlets from the political control of the authorities and give them an opportunity to function independently. There are no economic conditions ensuring the existence of independent media, television is controlled by the authorities, there is no transparency in either the activities or the sources of income of electronic and printed editions, there is a high level of self-censorship on editorial boards and public enterprises dominate the market for Internet services.

Today, Azerbaijan's mass media institutions overall are not able to carry out such important functions as protecting social interests and covering the activities of public institutions and major political campaigns in the country in due compliance with professional norms and international standards. Evidence of this were the 2013 presidential election and regular parliamentary elections in 2015. Azerbaijan's mass media were not able to offer comprehensive information on the progress of the elections and failed to provide balanced and unbiased coverage of the pre-election campaign. This demonstrates the political bias of most media resources in Azerbaijan and their division into feuding ideological camps which is a direct consequence of the challenges to the freedom of mass media listed above.

## **BELARUS**

### ***POLICY***

In October 2015 presidential elections were held in Belarus. During the election year the Belarusian legislation on the media was tightened. On January 1, 2015 amendments to the Law on Mass Media entered into force. In particular, these amendments extended the liability established by law to Internet media and ordered owners of Internet media to keep track of site visitors. The Ministry of Information acquired the right to block access to online resources extra judicially (access could be blocked for even one violation of the media legislation). The list of information prohibited for distribution in the media, already vaguely formulated and allowing for broad interpretation, was completed with the item, "...information, the dissemination of which can harm the national interests of the Republic of Belarus." The requirement of mandatory registration of distributors of media products (except the editorial offices themselves) was introduced, allowing the Ministry of Information to ban distribution of a mass media product.

Early this year, Presidential Decree No. 6 "On urgent measures to combat drug trafficking" signed on December 28, 2014 entered into force. It affects the activities of Internet resources and aims to establish total control over the behavior of Internet users. According to paragraph 9 of the decree, starting on January 1, 2016 Internet service providers will have to "ensure the collection and storage of relevant data about information resources visited by Internet services users."

### **PRACTICE**

The key problems of the media in Belarus in the 10 months of 2015 have been 1) increased prosecution of journalists whose articles were published in foreign media, 2) problems with the distribution of independent publications and 3) active interference by the Ministry of Information in the activity of print media and Internet resources.

A positive development is that the number of short-term arrests of journalists in 2015 decreased compared with other years (11 arrests in 10 months of the current year compared to 29 in 2014).

**Increased prosecution of journalists for cooperation with foreign media.** In 2015, the pressure on journalists who cooperate with foreign media without accreditation has increased. Based on reports drawn up by the police, the courts held journalists liable for the arbitrarily interpreted part 2 of Art. 22.9 of the Administrative Code which provides liability for unlawful production and/or distribution of media products. This practice began in May 2014 and expanded in 2015. While in 2014 only 10 journalists were held liable under Art. 22.9, from January to August 2015 this number increased to 28 cases. The journalists were fined between 20 and 50 base units (one base unit is 180,000 rubles which corresponds to approximately 10 euros). In all cases, the grounds for sanctions were not the content of the articles but the fact of their appearance in foreign media itself.

After President Alexander Lukashenko promised at the beginning of August at a press conference to take care of the situation, no new cases under Art. 22.9 against journalists were initiated, although the cases started earlier resulted in imposing fines.

**Problems with distribution of print materials.** The requirement for compulsory registration of media distributors introduced in the Law on Mass Media entered into force on July 1. Some independent newspapers that had been selling a significant number of their publications through trade enterprises and entrepreneurs were faced with a decrease in sales of their products. The media outlets that could not distribute their products through the Belpochta state-owned enterprises which dominate the market for disseminating media products or through the companies in the Soyuzpechat system were particularly affected. In the spring and summer of 2015, *Gazeta Slonimskaja*, *Intex-press* and *Intex-press plus*, and *Svobodnye Novosti Plus* faced a new refusal to be included in the subscription catalogue of Belpochta or to be sold in Soyuzpechat kiosks on the grounds of inappropriateness. In September, such refusals were sent to the newspapers *Novy Chas* and *Borisovskie Novosti*.

**The interference of the Ministry of Information in the activity of print media.** At the beginning of 2015, the Ministry of Information issued 27 warnings to 26 media outlets. According to the ministry, the reason for the warnings was the incorrect indication in the publication data of the name of the registering authority ("Ministry of Information RB" instead of "Ministry of Information of the Republic of Belarus"). These insignificant grounds for issuing the warnings (considering the fact that after two warnings in a year the Ministry of Information is entitled to apply to court to stop the release of media products) show that, perhaps, the real goal was to increase self-censorship in the media on the eve of the election campaign. Details about the interference of the Ministry of Information into activities of Internet media are in the section Internet and New Media.

### ***BROADCASTING***

On January 1, 2015, the amendments to the Law on Mass Media entered into force introducing the definition of a mandatory public television package as a list of television programs to be broadcast by telecommunications operators and providers of telecommunications services in the Republic of Belarus. (Previously the package was formed based on normative acts). According to Art. 26-1 of the law, telecommunications operators and telecommunications service providers who distribute television programs are required to ensure that each subscriber can watch the television programs included in the mandatory package. Failure to do so can be grounds for issuing warnings to distributors of television programs by the Ministry of Information.

The list of TV programs included in the mandatory public package was approved by Council of Ministers Order No. 407 dated May 13, 2015 that entered into force on 1 July. It includes 9 channels ((Беларусь 1, Общенациональное телевидение, Столичное телевидение, Мир, Россия-Беларусь, НТВ-Беларусь, Беларусь 2, Беларусь 3 and Беларусь 5.) ( Belarus 1, National TV, Capital TV, Peace, Russia-Belarus, NTV-Belarus, Belarus 2, Belarus 3 and Belarus 5 .) Thus, out of nine TV channels that were included in the mandatory package without a tender, four of them provide information and journalistic products made in Russia.

In 2015, Belarus shifted to digital broadcasting. The main problem of digital television in Belarus is the completely non-transparent and closed nature of the formation of national multiplexes both in terms of legal framework and commercial practices.

### ***INTERNET AND NEW MEDIA***

On February 19, the Ministry of Communications and Information and the Operations and Analysis Center under the President of the Republic of Belarus approved the Regulation on the Limitation of Access to Information Resources (or their components) placed on the global computer network. This document was adopted pursuant to Decree No. 6 and amendments to the Law on Mass Media and largely copies its provisions. Among the innovations were a reference to the possibility for blocking the means to ensure anonymity (proxy servers,



anonymous Tor networks, etc.) which allows users to access Internet resources that have been restricted. Unlike previously when access to the websites included in the "black list" was restricted only in public institutions, educational and cultural establishments, access is now blocked for all users in Belarus.

On June 18, the Ministry of Information decided to restrict access to the Internet magazine *kyky.org*. As mentioned in the release issued by the ministry, a number of online publications "...contain derogatory remarks about the national holiday of the Republic of Belarus—Victory Day—the country's citizens participating in it, questioning the importance of this event in the history of the state thereby distorting the historical truth about the Great Patriotic War." In addition, the ministry indicated that the materials on the website contain, "...forbidden vocabulary, disparaging, and sometimes insulting remarks against members of certain social groups, nationalities and religions." The administration of *kyky.org* did not receive any warnings or instructions. Access to the website was restored six days later after a meeting of the management of *kyky.org* with the Ministry of Information and after the administration removed the material that had led to the claim of the ministry.

In mid-June, another incident of blocking and later resuming access became known. The website was Hata.by, a resource for real estate sales and leases. On June 24, the Ministry of Information additionally blocked access to the websites bizator.by, ekomok.by, ilotok.by, localmart.by and slanet.by which, according to Minister of Information Liliya Ananich, were using their platforms for "misleading advertising of pharmaceutical products." According to the Ministry of Information, in the first half of the year they restricted access to 26 websites, most of which dealt with the sale of pharmaceutical products or contained articles with forbidden vocabulary. Access to two websites was later restored after they had taken measures to "eliminate the violations."

On October 3, the server of the information company BelaPAN which hosted the sites of the information campaign and its affiliated online newspaper *Naviny.by* was subject to a massive DDoS attack that lasted several days. According to BelaPAN, these attacks had to do with the publication on *Naviny.by* of articles about the religious-political action "Prayer for Belarus." The article criticized the methods of its organization and presented the opinions of students who "were ordered" to attend the event with the participation of the head of state.

## **CONCLUSIONS**

The first half of 2015 was characterized by increased government pressure on the media. Since late August, the pressure has decreased somewhat, probably due to the presidential election and to the intention of official Minsk to achieve a positive evaluation by the international community. Nevertheless, the situation with the freedom of expression remains unfavorable due to total state control over the country's information space.

## **RECOMMENDATIONS**

- 1) Public authorities should stop putting administrative pressure on Belarusian journalists and media and should introduce a moratorium on the use of extrajudicial sanctions against the subjects of the media and eliminate extrajudicial blocking of websites.
- 2) They should provide equal conditions for access to public distribution systems to state and non-state media, for allocating frequency resources, for licensing and for advertising.
- 3) Public authorities should eliminate the requirement for accreditation of Belarusian journalists whose articles appear in foreign mass media and should add the definition of the status of freelance journalists to the Law on Mass Media.

## **GEORGIA**

### **POLICY**

The Georgian constitution states that, “mass media shall be free. Censorship shall be impermissible.” According to experts, Georgia has mostly progressive and liberal laws governing the establishment and operation of media entities. There are no restrictions on setting up print media outlets. Print media do not need to obtain a license, are exempt from paying value-added tax and there are no special legal provisions governing their activities. In addition, the Internet is not currently subject to government regulation. Broadcasting is regulated by the independent regulatory body Georgian National Communications Commission (GNCC) which acts in accordance with Georgian legislation.

There were significant changes to Georgian media legislation caused by the digital switchover in 2015. According to the amendment to the Law on Broadcasting adopted in June 2015, broadcasting licenses were abolished and remain only for radio broadcasting. For TV broadcasting through any other technology, authorization is granted by the GNCC. Procedures on setting up broadcasting media entities have been significantly simplified.

Georgia completed the process of switching from analogue terrestrial broadcasting to digital broadcasting in August 2015. The reform was named “Georgian Model” as all regional broadcasters managed to build their own multiplex platforms; now there are 17 small regional networks, 2 private national networks and 1 state national digital network. It is worth mentioning that the process was subsidized for socially vulnerable citizens. Civil society was actively involved in this process; in particular, significant input came from the Institute for Development of Freedom of Information (IDFI). The switchover still needs several changes such as establishing terms of admission on digital multiplex platforms.

In 2015, new regulations on commercial advertising (limiting the length of advertisements, defining product placement) came into force that had been widely discussed in 2014.

Amendments mostly copy the restrictions envisaged by the EU directive; however, a number of media organizations and NGOs think it was adopted too quickly without sufficient discussions.

## **PRACTICE**

According to the 2015 National Integrity System report by Transparency International Georgia, “Although there have been no reported cases of censorship from the Georgian Dream government, on several occasions government representatives publicly criticized journalists for their critical reports.”

**Rustavi 2 case.** The lawsuit against the broadcasting company Rustavi 2<sup>1</sup> in the summer of 2015 became the main topic in the country. Kibar Khalvashi, who co-owned the television station from 2004 to 2006, filed a lawsuit seeking to claim back his shares in the broadcaster. The move prompted Rustavi 2 and opposition parties, especially the United National Movement (UNM), to allege that Khalvashi’s bid was orchestrated by the government which they claimed wants to gain control over the station. Prime Minister Irakli Garibashvili and other officials strongly denied allegations and said the government had nothing to do with the dispute.

Since 2004, the television station founded in 1994 has changed hands multiple times; most of those changes in its ownership structure were intertwined with politics. Every new shareholder was either an ally of then president Mikheil Saakashvili or from an obscure offshore firm. Rustavi 2 was often blamed for being biased towards the UNM. In 2004 Kibar Khalvashi, a businessman with close links to then interior minister and Saakashvili’s ally Irakli Okruashvili, obtained stakes in Rustavi 2 TV from three of its founders: Davit Dvali, Jarji Akimidze and Erosi Kitsmarishvili. Several years later Kitsmarishvili, Akimidze and Dvali claimed that in 2004 they were forced by the authorities to give up shares in favor of Khalvashi. Khalvashi also claims that in 2006 he was forced to give up his shares in favor of Davit Bezhuashvili, brother of the then foreign minister. The current owners of majority stakes in Rustavi 2 TV, Levan Karamanishvili and Giorgi Karamanishvili, are also believed to be Saakashvili’s associates. In the summer of 2014, Erosi Kitsmarishvili was found dead in his car with a single gunshot wound in the head. Investigators state it was a suicide, but Kitsmarishvili’s relatives dispute the findings.

After Khalvashi’s lawsuit, as an interim measure before the verdict Tbilisi City Court ordered an asset freeze banning current shareholders from selling their stakes. Political parties, NGOs and international organizations immediately reacted to this decision evaluating it as “disproportionate and excessive” noting that there are number of indications suggesting possible government meddling in the ongoing ownership dispute over Rustavi 2 TV.

In October 2015, the head of Rustavi 2 TV, Nika Gvaramia, claimed that he received a threat from the government to leak a video about his personal life if he refused to “step aside.” The investigation into Gvaramia’s blackmail allegations are ongoing under the article of the criminal code that deals with cases of “physical or psychological coercion.” But this was not the only

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<sup>1</sup> The whole case is written based on Civil.ge materials about Rustavi 2.

scandal in the Rustavi 2 case. Wiretapped recordings of two phone conversations emerged on October 29 via the Internet in which Georgia's ex-President and now governor of Odessa region in Ukraine, Mikheil Saakashvili, discusses "defending" Rustavi 2 by erecting barricades, calls for "going through the revolutionary scenario" and speaks about the need for "physical confrontation" during which "faces should be smashed." One of the recordings was between Saakashvili and Nika Gvaramia, and the other was between the ex-president and opposition UNM party leader Giga Bokeria. Rustavi 2 TV's newsroom released a statement on behalf of its journalists who said "...[we] strongly distance ourselves from any type of violent developments."

Fearing that plaintiff Kibar Khalvashi could seek immediate enforcement of the court verdict if he won, Rustavi 2 TV lawyers filed a complaint with the Constitutional Court challenging the clause in Georgia's civil procedural code that allows for the immediate enforcement of a court decision in certain instances even if the verdict is appealed to a higher court by one of the parties in the dispute. The Constitutional Court accepted Rustavi 2 TV lawyers' demand. On November 3, a judge in Tbilisi City Court ruled in favor of Kibar Khalvashi. Rustavi 2 lawyers will appeal the verdict. The appellate court's decision can also be appealed; the final decision will be up to the Supreme Court.

As an interim injunction, on November 5 a judge in Tbilisi City Court ordered the appointment of temporary administrators to replace the broadcaster's current director Nika Gvaramia and its chief financial officer. David Dvali (former co-owner of Rustavi 2) and Revaz Sakevarishvili (a former chief executive of Imedi TV) were appointed as temporary administrators. On November 6, the temporary managers and Kibar Khalvashi appeared at a press conference in which Khalvashi disclosed his decision to give "half of my shares" to Akimidze and Dvali if he finally won the court case. Khalvashi, Dvali and Akimidze made a promise that "no one will be able to interfere" with Rustavi 2 TV's editorial independence and "not a single" journalist will be sacked when they take over the day-to-day operations of the channel.

One of the justifications cited by Judge Urtmelidze for his decision was that, "When covering information related to issues of public interest, objective and fair reporting should be used. Under the management of the defendant, this issue was questionable. Neglecting the indicated purpose consequentially jeopardizes the fundamental purpose of media in a democratic society." These lines from the decision have been condemned by Rustavi 2 as an obvious attempt to determine the broadcaster's editorial policy. The decision of the judge about new administrators for Rustavi 2 caused serious reactions from civil society, the public defender and international organizations and diplomats. It raised the question of prospective censorship among media and NGOs. In a joint statement the U.S. embassy and diplomatic missions of the EU-member states in Tbilisi expressed their "concern" and said that this decision raises "serious questions about the independence of the judiciary" and the "actual degree of freedom of the media." "Editorial decisions should be made in news rooms, not court rooms," said OSCE Representative on Freedom of the Media Dunja Mijatović. "Selective justice serving the interests of the government challenges the future of Georgia and the implementation of the Association Agreement with the EU," read the statement of the President of the European

People's Party. Similar statements were made by Freedom House, the Ambassadorial Working Group, Co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for monitoring Georgia and the US State Department adding that "Freedom of the media and independence of the judiciary are essential foundations of any democracy, and in particular remain critical to Georgia's successful Euro-Atlantic integration." The Rustavi 2 case is ongoing.

**Other practices.** In 2015, no grave crimes were committed against journalists. At the same time, however, there were several reported cases of pressure and threats to journalists. The following are some of them.<sup>2</sup>

- On March 4, 2015, while performing his professional duties, Irakli Gedenidze, a photojournalist for InterPressNews, was physically attacked and had his camera broken. The person accused of assault was released by the court on a GEL 3,000 bail. The case is ongoing.
- On July 28, 2015, Gela Mtvlishvili, the head of Kakheti Informational Center, received threats on Facebook from the advisor to Defense Minister Imeda Darsalia. In an interview with magazine *Liberali*, Mtvlishvili also spoke about the pressure from Kakheti Governor, Irakli Shiolashvili.
- According to the public broadcaster in Adjara, on September 1 an employee of Adjara's Ministry of Agriculture verbally and physically abused a journalist from the broadcaster. They addressed the prosecutor's office requesting an investigation.
- According to Maestro TV, in September regional correspondent Irakli Vachiberidze was drawn aside by the Head of the Ministry of Interior's Guria's Regional Main Division who proceeded to demand explanations from the journalist because of a critical question to Prime Minister.
- On October 16, the Director of Tabula TV Tamar Chergoleishvili and two others were detained while sticking a poster on a fence in front of the Tbilisi Opera Theatre in a protest against Gazprom. They were released on parole.

According to an Institute of Development of Freedom of Information (IDFI) report published on May 14, 2015, the level of public information transparency continues to deteriorate. In March 2015 IDFI sent every ministry and all their sub-entities freedom of information requests. In total 1185 requests were sent to 19 ministries and 49 sub-entities. IDFI received complete responses to 51.8% of the requests; incomplete responses were received on 2.9% of the questions; in 1.6% of the cases public entities refused to disclose information while in 20.8% administrative bodies explained that information was not kept in the institution. In addition, 22.9% of the requests were ignored by the public institutions.

The economic environment for the media did not significantly change in 2015. The Georgian advertising market is not big enough to financially support the media sector; however, in spite of the claims and fears of national broadcasters after the receiving advertisement amendments, the last figures show that incomes from advertisements increased in national currency, but

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<sup>2</sup> Cases of regional journalists are taken from Transparency International report

broadcasters state that their incomes decreased in US dollars. At the same time, regional broadcasters still are facing financial problems that interfere with their future development.

## ***BROADCASTING***

On October 14, 2015, Georgian national and regional TV companies joined together in a special agreement aimed at activating self-regulation mechanisms in relation to children's issues. According to the Monitoring Report of the Georgian Charter of Journalistic Ethics released on October 30, 2015, media outlets generally are trying to protect children's rights and ethical norms, but rare violations still occur.

In 2015, the Media Development Foundation had several successful cases resolved through self-regulatory mechanisms inside TV companies and through the Georgian Charter of Journalistic Ethics, which is an independent self-regulatory body.

On August, 29, Imedi TV announced the suspension of its political talk shows Reaktsia (Reaction) and Imedis Kvira (Imedi's Sunday). According to the official statement, the reason for this was the desire to change the format of the programs and to develop a new TV product. The host of talk shows Inga Grigolia, a well-known Georgian journalist, claimed that Imedi TV's decision was political. After a GNCC demand and warning letter, Imedi TV in November 2015 launched a new political talk show named Politics.

In 2015, a new TV Channel, Channel Pirveli (TV First), emerged on the Georgian media market. This TV channel began broadcasting as a sport network in 2014. TV Pirveli launched its news program in September 2015. TV Pirveli is not the only channel that changed its broadcasting direction in 2015. The TV company GDS owned by Bera Ivanishvili, a son of former Prime Minister Bidzina Ivanishvili, was transformed from entertainment TV into a general broadcaster. On March 15, GDS launched an analytical TV show co-hosted by Bidzina Ivanishvili himself. Several months later, Ivanishvili left the TV show titled 20/30. Currently GDS is running a news program with the same name.

**Georgian public broadcaster.** On February 24, 2015 The Georgian Charter of Journalistic Ethics published its media monitoring report on the programming of the public service broadcasters of Georgia, which revealed that the Georgian Public Broadcaster (GPB) on a number of occasions failed to fully fulfill its priorities in 2014.

In 2015, the board of GPB approved new program priorities for the current year and the broadcaster started a process of reforms. According to the official statement, the reforms will result in the improvement of both the structure and the content of the channel. Soon after this statement, GPB appointed a new head of the news and multimedia department, Giorgi Gvimradze. He is not known in Georgian media field as a media manager or as a news producer. According to GPB officials' comments, Gvimradze was involved in preparing the broadcasters' strategy. In spite of reforms, the GPB public board still remains incomplete with two vacancies.

On September 5, the adviser to the director made a statement that GPB would close its political talk show First Studio hosted by Eka Mishveladze. According to Basa Janikashvili's announcement, the show was closed due to her marriage to a politician which created a conflict of interest. Host Mishveladze herself did not agree with the decision of the management.

In 2015, there was an attempt to replace the General Director of the Adjara public broadcaster by two members of the board, but the other board members did not approve changes. Soso Sturua, the current director of the broadcaster, still remains in his position.

### *INTERNET AND NEW MEDIA*

On the Freedom House annual study of Internet freedom in 2015, Georgia was assessed 24 points out of 100 (0=the most free and 100=the least free) and consequently was assessed as "partly free." The score improved by 2 points compared with 2014.

There were no significant changes in the country regarding Internet and new media. As was mentioned in 2014 reports, in recent years the number of Internet users in Georgia has increased significantly. Various news and entertainment websites have been established. The most popular social network in Georgia is Facebook. The expression of personal opinion via the Internet is not suppressed in Georgia. The country has no legal restrictions on the freedom of the Internet. There were no cases of arrests or punishment of active Internet users in 2015; however, there were cases when public servants could not restrain themselves from insulting journalists or bloggers.

### *CONCLUSIONS*

Thus far in 2015 there have been no signs of either dramatic progress or deterioration in the freedom of speech in Georgia except the case of Rustavi 2 which was evaluated by local NGOs and international society as a serious threat to media freedom. Apart from the Rustavi 2 case, there was some progress, in particular the digital switchover and the abolishment of TV licenses. In some areas the situation remains the same.

Georgian media is not subjected to censorship. There are no proven acts of censorship by the Georgian Dream government. However, on several occasions, government representatives publicly criticized journalists for their critical reporting. Questions about prospective censorship were raised after the judge's decision in the Rustavi 2 case. As for self-censorship, some experts think that it is present in many mass media outlets.

In 2015 as in 2014, no grave crimes were committed against journalists in connection with their professional activities. Authorities are still often accused of applying psychological pressure or verbal abuse and criticism towards journalists; however, physical assaults are very rare. In 2015, there were no significant changes in the rights of journalists; as in 2014, their labor rights are still not sufficiently protected.

In terms of accessing official information, according to the IDFI report published on May 14, 2015, the level of transparency was better from 2012 to 2013 than it is nowadays.

As to economic environment, Georgian media still lacks financial sustainability and depends on a very limited advertising market.

The issue of the GPB remains problematic. Apart from the low ratings and insufficient level of confidence from the audience, two members of the board are still missing so it is working with seven members instead of nine.

According to experts, in 2015 the work of the GNCC improved; it is acting in a better and more transparent manner with active participation from the nongovernment sector.

In terms of the Georgian mass media's compliance with professional standards, the situation in 2015 is better than before; media has become more sensitive to and tries to follow ethical norms. Some experts think that it has become compulsory because of regular monitoring, statements and reactions to violations of professional and ethical standards from society and NGOs like the Georgian Charter of Journalistic Ethics. In terms of self-regulation mechanisms, it should be mentioned that self-regulatory bodies inside broadcasters still remain more formal than effective.

## **RECOMMENDATIONS**

- 1) The government should assure the public and international society that the declared policy of media freedom is unwavering and remains in practice, especially with regard to the Rustavi 2 case, and should remove all concerns about their involvement in the process.
- 2) The government should take into account that critical statements from high-level officials encourage the inappropriate behavior of other government employees, especially at the regional level.
- 3) The government should investigate all cases of pressure or threats towards journalists.
- 4) The digital switchover should be completed with high transparency and the active involvement of civil society.
- 5) Georgian media should increase their level of transparency in media financing.
- 6) Georgian media should increase their level of accountability and professional and ethical standards.
- 7) The Parliament of Georgia should complete its role in reforming of the Georgian Public Broadcaster and should approve two new board members to fill the vacant positions.

## **MOLDOVA**

### **POLICY**

Generally, there are sufficient constitutional and legal guarantees of freedom of expression and press freedom in Moldova. There is no official censorship, and the Criminal Code contains



articles penalizing censorship and the intimidation of journalists while performing their professional duties. Print media outlets do not need a license to work, they need only to be registered as legal entities, and the process for issuing licenses and granting frequencies for broadcasters was not used as an instrument for repression of press freedom in the past year. Defamation has been decriminalized and the Plenum of the Supreme Court of Justice ruled that courts must apply reasonable compensation in cases of defamation. The first steps toward ensuring the transparency of media ownership were made in March 2015 when Parliament approved the amendments to the Broadcasting Code in this respect. According to the law that entered into force on November 1, 2015, all broadcasters should publish on their web sites data on their owners as well as on their final beneficiaries. At the same time, they must send these data to the regulatory agency—the Broadcast Coordinating Council (BCC)—to be posted on the page [www.cca.md](http://www.cca.md).

Nevertheless, the guarantees provided in national legislation fail to ensure real freedom, and their implementation often leaves much to be desired. Although civil society insisted on the adoption of some laws and regulatory acts that are important for the development of mass media, national public mass media policies failed to undergo some essential changes. Thus, the draft of a new broadcasting code that was developed by civil society and presented to Parliament in May 2011 has been blocked by the governing coalition until now. According to Parliamentary committee representatives, it is still not the proper time to adopt such a law.

Given that the country's information space is dominated by television rebroadcasts from Russia and the effects of this information warfare were strongly felt in Moldova, some politicians and civil society leaders called in 2014 for the adoption of information security measures, including an interdiction on rebroadcasting Russian news and analytical programs that are used as instruments of propaganda to manipulate public opinion. In the beginning of 2015, a parliamentary group developed a draft law on changing the Broadcasting Code which, according to the authors, aimed to protect the information space of the Republic of Moldova. The draft law was harshly criticized by civil society organizations and media outlet representatives. In their opinion, it contained provisions that could limit the freedom of expression of journalists, and could affect the activities of many media outlets. Later on a new group of parliamentarians developed another draft law focusing specifically on protecting Moldovan information space and expanding the indigenous production of TV content. Both draft laws were sent for comment to the Council of Europe and to OSCE, which noted that the draft laws needed improvements to be in accordance with European norms related to freedom of expression and pluralism of opinion.

In 2015 the BCC continued monitoring the content rebroadcast in Moldova by a series of TV channels. In May, the BCC decided to apply financial sanctions to a number of broadcasters (Prime TV, Ren-Moldova, RTR Moldova and TV 7) and decided to stop broadcasting the channel Russia 24 throughout the country for non-compliance with the legislation and resorting to manipulation and propaganda. It is worth mentioning that in 2014, the BCC suspended the broadcasts of Russia 24 for six months.

The process for transitioning to digital television which had to be completed in June 2015 was insufficient and non-transparent. In July 2015 Parliament passed the Law on Changing the Broadcasting Code. According to the new provisions, the deadline to switch to digital television was extended until December 2017.

Moldova saw no improvement in access to information. During 2014, the Independent Journalism Center (IJC) discussed, formulated and presented to Parliament amendments to the law on access to information that was adopted in 2000 and that needs improvements in order to provide additional guarantees for journalists, to define areas with limited access to information and to exclude abusive interpretations and unjustified limitations of access to information by public officials. The draft law was registered as a legislative initiative by the Liberal-Reformers Parliamentary Party but has not yet been adopted.

### ***PRACTICE***

The security of journalists in Moldova is guaranteed by law, and no killings of journalists in connection with their work have occurred since the declaration of independence. In 2015, there were no cases of kidnappings or arrests of journalists while performing their duties.

Over the past two or three years, the judicial system of Moldova stopped the practice, common in past years, of taking a biased approach in cases involving mass media. As a result, court decisions ruling against media outlets are increasingly rare. The fines applied to media outlets and journalists in cases of alleged defamation have steadily decreased, and lawsuits initiated by politicians, officials, and businesspeople against mass media were often dropped in the early stages.

Although there was no public information available about cases of censorship in public or private media outlets, media experts still suggest the phenomenon exists, disguised in the form of “editorial policy.” The existence of self-censorship is more certain, especially in some private media outlets controlled by politicians and businesspeople. Media monitoring in 2015 showed that some media outlets have filtered the topics they covered and that their coverage of some issues has been manipulative.

There is no state monopoly of media outlets or printing companies in Moldova, but the situation with monopolies is still worrisome because the Broadcasting Code provisions regarding the transparency of media ownership entered into force only on November 1, 2015. Thus, the BCC is still waiting for broadcasters statements on their owners and final beneficiaries. Also, the state has not managed to limit the concentration of ownership in the advertising market or to de-monopolize the print press distribution market. This hinders the development of media outlets and makes them dependent on often abusive tariff policies of the companies that have a dominant position in the advertising or distribution markets. Thus, although the advertising market is not controlled by the state, it is dominated by private companies managed from the shadows by public employees or politicians. At the national and local levels, so-called state advertising is placed as a result of non-transparent conditions and criteria in the media outlets favored by authorities.

Unfortunately, in 2015 Moldovan authorities failed to ensure favorable economic conditions for the development of media outlets, and there is no strategy aimed at increasing the economic capacity of the press that might, accordingly, increase its independence. At the same time, the state has not intentionally created obstacles to the economic activities of mass media and has stopped directly interfering with their work.

Media monitoring during the electoral campaign of 2015 showed that candidates had access to airtime provided by the national public broadcaster and by the majority of commercial broadcasters.

Access to information continues to be an obstacle for journalists in their work. Information is still sometimes artificially restricted or limited because of bureaucratic barriers and insufficient transparency among public institutions. Additionally, journalists do not always have the necessary knowledge or abilities to access some of the data that is available online.

The problem of limited media access to Parliament's plenary meeting room also remains to be solved. This is indicative of the government's intention to control the video footage transmitted from Parliament and, indirectly, to limit access to information of public interest.

### ***BROADCASTING***

The country has a national public broadcaster and a regional public broadcaster. The national broadcasting company, Teleradio-Moldova (TRM), continues to implement reforms according to a development strategy created with European support. In the opinion of experts, however, the implementation process is too slow. In 2015, the TRM Supervisory Board (SB), which according to legislation is the institution's supreme administrative body, became functional after four new members were elected by Parliament. The parliament failed to elect 2 more SB members, arguing that 10 out of 12 candidates in the contest were not skilled enough. This, in civil society experts' opinion, proves that members of SB are selected based on political, not on professional criteria.

The monitoring of broadcasters during local general elections conducted by the BCC and by IJC showed that none of the electoral candidates had their access to broadcasting (including access to electoral debates and paid electoral advertising) limited. In newscasts, however, some broadcasters provided better visibility to some candidates at the expense of others and even behaved as propaganda machines for promoting certain contestants. Thus, two out of five broadcasters with nationwide coverage (Prime TV, Canal 2) massively favored the Democratic Party (PDM). According to experts, the broadcasters are owned by Vlad Plahotniuc, the vice president of PDM. Two other broadcasters—Moldova 1 and TV 7—were more neutral in covering elections, while Accent TV significantly favored two electoral contestants: Our Party and the Party of Socialists (PSRM).

### ***INTERNET AND NEW MEDIA***

In 2015, online journalism continued its rapid development which is explained on the one hand by the lack of rigid regulations in cyberspace and on the other hand by the speed of the Internet. According to netindex.com, Moldova ranks sixth in the world in the fastest Internet speeds (almost 50 MB/s). A study published in October 2014 by the European Neighborhood

and Partnership Instrument shows that Moldovan citizens are the largest consumers of mass media in the Eastern Partnership countries: They are leaders in the use of social networks (53%), Internet (skype, YouTube, emails) (55%), radio (62%) and online television (35%).

According to official data, at the beginning of 2014, about 24,000 websites were registered in Moldova on the .md domain. Approximately 200 of these contain media content. Since then, these numbers have been growing.

The Audit Bureau of Circulations and Internet and the Gemius Company, the largest agency specializing in the study of the Internet market in Central and Eastern Europe, began regularly compiling and publishing ratings of the most-viewed information portals.

The exact number of blogs and bloggers existing in the country is unknown. Moldovan bloggers have organized themselves and have created an active community using a common online platform: [www.blogosfera.md](http://www.blogosfera.md) In November 2015, the platform contained 2,054 blogs categorized into 24 fields of interest, from local administration and business to mass media, religion and tourism.

Websites with media content more and more often have become the subjects of media monitoring, although they are not defined by law and their work is not regulated. In 2015, the monitoring of online journalism focused on many different areas from informational manipulation to gender equality. During the elections in June 2015, five portals were monitored by civil society. The results of this monitoring showed that online media actively covered the electoral campaign, but unfortunately, some of them clearly demonstrated political partisanship in favor of certain candidates. In this sense, online journalism during the electoral period behaved much like traditional journalism.

## **CONCLUSIONS**

Generally, the constitutional and legal guarantees of freedom of expression and press freedom in Moldova are sufficient, but some laws need improvement and changes in order to secure the development of an independent mass media industry. As in previous years, in 2015 Parliament's collaboration with media NGOs was stagnant, and important initiatives in this field were blocked or delayed for political reasons.

Changes for the better that were expected in the mass media sphere did not occur. Expectations centered primarily on reducing monopolies in the broadcasting and commercial advertising markets. Because of group interests in the media market, politicians did not demonstrate the necessary political will to adopt legal guarantees for establishing fair competition in the advertising market.

Throughout the year, there were no improvements in Moldova in terms of legislation or in the daily work of the mass media. On the contrary, as in past years during the electoral period, the majority of mass media outlets did not have sufficient capacity to resist political influence and admitted deviations from professional standards.

Although there was no direct pressure from the state, the day-to-day activities of journalists and media outlets were influenced to some extent by artificial limitations on the access to information of public interest.

In summary, the imperfect and ambiguous nature of public policies on media allows for political interference in the work of the national and regional public broadcasters, creates institutional blockages to the detriment of public interest and stimulates unfair competition.

### **RECOMMENDATIONS**

Public authorities should take steps:

- 1) to ensure transparency in the most important areas that are crucial for the development of media such as transparency of media ownership, in the advertising market and of distribution of frequencies and licenses in broadcasting;
- 2) to design stimulating policies for internal and external investments in order to develop the media field and to ensure financial sustainability of media outlets;
- 3) to protect Moldovan information space from invasion by foreign media content and to ensure the informational security of media;
- 4) to continue reforming the public broadcasters.

Civil society and media institutions should:

- 1) strengthen the cooperation between civil society organizations and media outlets in order to develop the field;
- 2) be accountable to the public by applying self-regulatory mechanisms;
- 3) strengthen self-regulatory mechanisms in online media;
- 4) strengthen the professionalism of media ensuring pluralism of content and gender equality.

## **UKRAINE**

### **POLICY**

Several important legal acts and decisions were approved in Ukraine during 2015 that affected media, their freedom and their role in society.

In March, Parliament adopted the Law on Amending Certain Laws of Ukraine on Public TV and Radio Broadcasting in Ukraine. It allowed the creation of public broadcasting and started to establish its legal regulations and build up the necessary structure. As of November, the establishment of the steering committee for public broadcasting is about to be finalized.

In June, the Law on Amending Certain Laws of Ukraine on Strengthening the Safeguards of Legal Professional Activities of Journalists came into force. It establishes criminal liability for the threat or use of violence against a journalist and the intentional destruction or damage to property of a journalist. "Intentional beating, making minor or medium damage to a journalist associated with the professional activities of a journalist shall be punished by five years of the deprivation or restriction of liberty; making intentional grave damage to a journalist by five to twelve years of the deprivation of liberty" the law states.

Another extremely important development is the Law on Amending Certain Laws of Ukraine on Ensuring Transparency of Ownership of Mass Media and Implementing the Principles of National Television and Radio Broadcasting Policy adopted on 4 September. It addresses one of the most burning problems of mass media. As of the date of adopting the law, 80% of the real owners of Ukrainian mass media outlets have not been revealed; 85% of the Ukrainian TV audience does not know to whom the specific TV channels belong. The law was passed with difficulty, but still it has been adopted.

It envisages the following:

- Information agents (TV/radio companies and program service providers) shall be obliged to disclose information about the structure of ownership and final beneficiaries on its official web site and to furnish this information to the National Council of Television and Radio Broadcasting of Ukraine.
- The National Council of Television and Radio Broadcasting of Ukraine shall be able to request additional information about the structure of ownership of information agents.
- The failure to provide or the provision of incomplete or false information about the structure of ownership shall result in a fine for a TV/radio company or a program service provider.
- The National Council shall be obliged to provide detailed justifications for all its decisions to issue or refuse licenses or their extensions.

Moreover, the new law forbids legal entities, natural persons and individual entrepreneurs registered in offshore areas as well as stateless persons from owning TV/radio companies, the list of which is specified by the Cabinet of Ministers of Ukraine.

In August 2015, the National Human Rights Strategy of Ukraine was enacted. It *inter alia* provides for the proper functioning of public broadcasting, the freedom of editorial policy, transparent information about the ownership and sources of funding of mass media and protection of professional activities and the security of journalists.

At the same time, the establishment of the Ministry of Information Policy of Ukraine in January 2015 turned out to be dubious and controversial. It was criticized by Ukrainian and foreign media as well as by the OSCE Representative on Freedom of the Media Dunya Miyatovich. The opponents of the new institution expressed concerns that it might become a tool for the authorities to control or censor mass media. These concerns did not prove true, but the uncertainties on the reasonability of this institution remain. Minister Yurii Stets claimed that the Ministry of Information Policy was necessary only for the period of military aggression. One of visible outcomes of the ministry's operation is developing the draft Concept Note on Information Security of Ukraine. The draft, however, was lambasted by the OSCE Representative on Freedom of the Media and consequently sent back for adjustments. On 1 October 2015, the Ministry of Information Policy launched a multimedia platform for broadcasting abroad planned to cover Europe, Asia and the US. The platform consists of a TV channel, a news bureau, an international journalist's network and a production studio. Broadcasting abroad is positioned as the instrument to counter Russian propaganda.

Throughout the past year, combatting Russian propaganda was one of the objectives of national media policy. In particular, the Law on Amending Certain Laws of Ukraine on the Protection of Information Television and Radio Space of Ukraine was enacted on 4 June. It *inter alia* establishes sanctions against TV/radio companies that broadcast Russian films and serials banned in Ukraine.

According to the law, the National Council of Television and Radio Broadcasting of Ukraine documents respective violations by a license holder and reports them to the State Cinema Agency for “taking measures stipulated by the law.” In addition, broadcasting banned films may be punished by a fine in the amount of 10 minimal wage units (currently about 500 euros) for the first offence and 50 minimal wage units (about 5,000 euros) for every repeated offence.

The law sets forth that the ban applies to films that promote the authorities of an aggressor state (in this case Russia) and that contribute to the reputation of officials of an aggressor state and officials of Soviet security agencies. Furthermore, the ban applies to films promoting the legitimacy of the occupation of Ukrainian territory while the law states that all films promoting the authorities of an aggressor state produced after 1 August 1991 are subject to ban. In addition, the law bans the broadcasting of all films produced by natural persons and legal entities of an aggressor state after 1 January 2014. The State Cinema Agency does not issue broadcasting certificates for such films.

### **PRACTICE**

Obstruction of media activities remains one of the most common problems for Ukrainian mass media, and September and October of 2015 recorded an upward trend in this regard. The Institute of Mass Information documented 18 cases of obstruction of media activities in October. The same number was observed in September, many more than in previous months (9 cases in August, 5 in July, 8 in June and 8 in May). Experts consider, however, that this trend was associated with the election campaign as local elections took place in Ukraine on 25 October. Along with this, it should be noted that the actual voting day was quite calm for the media as only minor, isolated cases were documented.

The obstruction of media activities is very much provoked by impunity for it. While Article 171 of the Criminal Code stipulates the punishment—even as grave as imprisonment—for such obstructions, proceedings are seldom initiated pursuant to this article. In August 2015, a number of Ukrainian media outlets sent a letter to the President of Ukraine calling on him to end impunity for obstructing media activities.

In total, the Institute of Mass Information recorded 1 murder of a journalist, 52 cases of beating, 84 cases of obstruction of media activities and 12 cases of censorship from January to October 2015.

Another issue worth mentioning is the practice of countering Russian propaganda. The legislative ban on certain Russian cinema and TV products was addressed above. Furthermore, in February 2015, the Secretariat of Parliament suspended the accreditation of some 100 Russian media outlets because a resolution of Parliament titled On Temporary Suspension of Accreditation of Journalists and Technical Staff of Certain Mass Media Outlets of the Russian Federation at State Authorities of Ukraine had been adopted earlier. The OSCE Representative

on Freedom of the Media Dunya Miyatovich claimed that such restrictions on the professional activities of journalists of several Russian media outlets in Ukraine were “excessive.”

In August, the State Security Service of Ukraine forbid 16 Russian citizens, including journalists and culture professionals, to enter Ukraine.

In September, a sanction list was compiled to include over 40 media professionals from various countries and was approved by the President of Ukraine Petro Poroshenko. This list included citizens of Russia, Moldova, the UK, Spain, Hungary, Slovakia and other countries. They were banned from entering Ukraine; however, this list provoked a scandal as it turned out that it included representatives of reputable European media outlets. The list was reviewed soon after publication to remove several journalists from it.

### ***BROADCASTING***

Transparency of ownership and control of TV channels by oligarchs remains a grave problem in the Ukrainian TV industry. The oligarchs are in possession of all major national broadcasters. Similarly, the oligarchs or lower-level business people merged with politics often control popular local TV channels. This ends in a distortion of journalism standards as the owners often use their channels to pursue political objectives. Given the specific and dynamic relationships between the oligarchs and top officials of Ukraine and their intrusions into politics, the TV channels have nothing to do but to follow the agreements or clashes between their owners.

An illustrative incident took place on 18 September when a popular TV show of Savik Shuster was off the air on 1+1 TV channel several minutes before its starting time. The discussion was to be primarily focused on scrapping the immunity and apprehending one of the MPs of the opposition Radical Party of Ukraine. It was generally understood that such an extraordinary decision by the TV channel was provoked by pressure on its owner oligarch Ihor Kolomoiskyi by the Office of the President or by an agreement between them.

According to monitoring by the Academy of Ukrainian Press, 46% of news reports on four major national TV channels concerned politics, but only 14% offered two opinions about the topic. It should be noticed that the balance of opinions is normally violated in favor of the authorities: Representatives of the ruling coalition were on the air four times more often than the opposition.

This underlines the importance of creating public TV and radio broadcasting in Ukraine as a viable alternative to oligarch-owned TV channels. The process is moving ahead, although not without significant delays. The public broadcaster is based on the First National Channel. The steering committee should be established by mid-December. The public broadcaster is expected to launch its full-fledged activities in late winter of 2015 or in the spring of 2016.

### ***INTERNET AND NEW MEDIA***

Internet is getting to be a more and more popular source of information for Ukrainians as proved by the increase in the Internet advertising market in Ukraine. According to forecasts of the All-Ukrainian Advertising Coalition, it should total 2.3 billion UAH (92 million euros) in 2015,



an increase of 9% year-to-year. The Internet is ahead of both press and radio and is catching up to television in terms of the advertising budget (150 million euros).

It is also illustrative that the number of paid political advertisements camouflaged as journalists' texts (the so-called *dzhinsa*, one of extremely negative features of Ukrainian media) is growing. They were particularly prevalent before the elections.

No evident or extreme problems with freedom of speech on the Internet have been observed in Ukraine so far. Notwithstanding, according to the most recent rating by Freedom House, the Ukrainian score was 34 in 2015 (compared with 37 in 2014), so Ukraine is still classified as a partly free country.

A bill on the protection of copyright and related rights submitted by the government in October 2015 is controversial. Experts consider the bill bears the risk of restricting the freedom of speech and of violating privacy and anonymity on the Internet. The bill stipulates the possibility of using claims on violations of copyright to put pressure on mass media and investigative journalists. The bill does not require claimants to provide evidence of their copyright, but it obliges the owners of web sites to provide claimants with information about the users who published the respective materials on the Internet.

## **CONCLUSIONS**

The freedom of media in Ukraine remains at the level of previous years as no significant improvement or deterioration has been observed. It can be definitely concluded that the change of authorities after the 2013–2014 revolution and the escape of former President Yanukovich from the country did not result in drastic amendments to media legislation.

The relationships between the authorities and media remain the same. The standard lack of reaction to high-profile journalistic investigations unveiling corruption has not changed. The same was observed during the previous regime when the prosecutor's office, courts and the special services controlled by the ruling party simply ignored media reports about corruption and abuse of power.

Several positive legislative developments should be noted. First of all, they concern the issue of media ownership and progress in creating a public broadcaster. The latter is the most awaited short-term advancement as it can significantly affect the TV and radio environment in Ukraine.

## **RECOMMENDATIONS**

The primary steps recommended for authorities in the field of media are: 1) to complete reforming of the public broadcaster in Ukraine and to promote its editorial and financial independence;

2) to change fundamentally the tolerant attitude of state institutions for impunity for obstructing journalists' activities;

3) to take further steps to improve the transparency of ownership in the media, in particular through the effective implementation of the law adopted on transparency of media ownership.