

# **MEDIA LANDSCAPES**

**OF EASTERN PARTNERSHIP COUNTRIES**

YEREVAN 2011

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<sup>1</sup> Country Reports are presented in an alphabetic order

## INTRODUCTION

The Eastern Partnership Civil Society Forum, first assembled in Brussels in November 2009, did a lot to define the expectations of the Forum participants with regard to the new initiative of the European Union, it helped them to better realize their role in the implementation of the initiative. The recommendations, developed in Brussels and expanded at the second CSF meeting in November 2010 in Berlin, focused on the priorities of all four thematic platforms of the Eastern Partnership. The working groups and subgroups formed seek to accumulate the experience, the knowledge, the advocacy capacities of the civil society organizations of various domains to ensure effective reform process in the partner countries.

Among others, within CSF a sub-working group was created to focus on media issues. It involves Forum participant organizations from all six countries of the Eastern Partnership as well as from the European Union. Within the two years of its existence the CSF subgroup held a number of meetings, discussed the ways to enhance the role of media NGOs, to increase the freedom of expression all over the region of Eastern Partnership.

One of the main initiatives of the SWG members was the joint overview of the media situation in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Presenting the various aspects of this domain in one study report allows disclosing both the common trends, typical for all countries of the region, and specific problems. The representatives of journalistic associations, the media experts who took part in developing this overview, titled it “Media Landscapes of Eastern Partnership Countries”, expecting their comprehensive study to become a useful resource for the development of the reform policy in the information domain of the Eastern Partnership countries.

Unfortunately, the problems of media freedom are not reflected in the current agenda of official Platform 1, and the authors of this publication hope that drawing attention to them will help to define specific objectives for ensuring the independence and professionalism of the press within the Eastern Partnership initiative. Free and quality media can play a crucial role in the whole process of the EaP and the European integration.

In the course of the preparation of “Media Landscapes” unified structure and approaches were adopted for all six countries. Working on the publication, the Yerevan Press Club and its partners, the authors, held regular consultations that enabled them to outline the general picture of the media domain in the region. The study deals with the most diverse issues - ranging from media legislation to journalistic education, from the press market to social networks, etc. The general challenges faced by free media in the countries of the Eastern Partnership - attempts to control the Internet, to use the digitization of broadcasting to further monopolize the TV air, resorting to

implicit, sophisticated forms of censorship; as well as the threats to free expression that have “national character” - political repressions against opposition journalists, use of defamation laws to exert economic pressure on critical media are reflected in the overview.

Yerevan Press Club and the members of the Media sub-working group of CSF hope that their study will be of broad professional interest in the countries of Eastern Partnership and EU and express their gratitude to the Friedrich-Ebert-Stiftung (FES) for the assistance in developing, publishing and presenting this book.

“Media Landscapes of the Eastern Partnership Countries” was prepared and published through the efforts of: editor of the study **Elina Poghosbekian** (Yerevan Press Club, Armenia); **Boris Navasardian, Gegham Baghdasarian, Armen Nikoghosyan** (Yerevan Press Club, Armenia); **Arif Aliyev** (“Yeni Nesil” Journalists Union of Azerbaijan, Azerbaijan); **Zhanna Litvina, Andrei Bastunets, Yuras Karmanau** (Belarusian Association of Journalists, Belarus); **Manana Jakhua** (Association and Radio “Green Wave”, Georgia), **Ketevan Mskhiladze** (Media Development Fund, Georgia); **Nadine Gogu** (Independent Journalism Center, Moldova); **Oksana Volosheniuk, Valeriy Ivanov** (“Academy of Ukrainian Press” International Charitable Foundation), **Andriy Kulakov, Volodymyr Yermolenko, Vitaliy Moroz, Iryna Chupryna** (Internews Ukraine), **Oleg Khomenok, Tetiana Kotyuzhinska** (Ukraine); editor-translators **Anna Simonian, Irene Aloyan**; graphic designer **Renata S.**



# ARMENIA MEDIA LANDSCAPE

## CHAPTER I. BROADCAST MEDIA

### Legal Framework

The broadcast domain of Armenia is regulated by the RA Laws “On Television and Radio”, “On Mass Communication”, “On Freedom of Information”, “On Copyright and Adjacent Rights”, “On Advertising”, by relevant chapters of the RA Electoral Code, dealing with media activities during elections and referenda, as well as by other legislative and normative acts.

The first version of the draft law “On Television and Radio” was developed in 1996. Since then the document underwent an enormous number of changes. The Law was adopted by the National Assembly of Armenia on October 9, 2000. It stipulated the transformation of national television and radio into the Public TV and Radio Company (PTRC) and the creation of National Commission on Television and Radio (NCTR) - a body that regulates private broadcasting and is in charge of licensing process. According to the Law, all members of the PTRC Council and NCTR were appointed by the President of Armenia.

Further on, in 2005 the RA Constitution was amended, the principle of the formation of the National Commission on Television and Radio was revised. Presently half of its eight members are appointed by the President of the country, with other half being elected by the parliament. Yet the political tradition in Armenia is such that the President and the parliamentary majority represent the same political force, hence the new mechanism added nothing with regard to the independence of the regulator and to the reflection of diversity of opinion present in Armenian society. The necessity of changing the principle of NCTR formation was repeatedly stressed in the Resolutions of the Parliamentary Assembly of the Council of Europe on the Armenia’s compliance with its commitments to the CoE and in a number of other documents by international organizations.

The conductance of broadcast licensing competitions since 2002 was considered in the context of introducing European standards of media regulation in Armenia, yet in practice these competitions became a mechanism to oust from the air the broadcasters who were out of authorities’ control. This affected primarily “A1+” TV company. Since that time “A1+” has taken part in 13 broadcast licensing competitions, with its bid every time scoring the lowest of the candidates. This happened last in December 2010. Thus, in fact, the ruling of the European Court of Human Rights of June 17, 2008, recognizing that Article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (the right to freely impart information and ideas) was violated in the case of “A1+”, remains neglected.

It was expected that after the judgment of the European Court fair and transparent competitions were to be held within the shortest time span possible. The reality turned out to be quite different. The digitization of broadcasting became a pretext to impose a two-year moratorium on broadcast licensing competitions, introduced in September 2008. This was publicly seen as a pretext to refuse air to “A1+”. In this regard the documents of PACE and other international structures noted that new technologies must be used by the authorities to enhance the media plurality and not to damage it.

The moratorium expired on July 20, 2010 and on June 10, 2010 the parliament adopted amendments into the Law “On Television and Radio”, conditioned by the need of digitization. These amendments were strongly criticized by both local journalistic and international organizations, who stated that the measures taken do not solve the fundamental problems of the broadcasting.

The amendments to the broadcast Law and the digital broadcasting licensing competitions held later (their results were announced in December 2010) brought to a reduction of the number of operating TV companies. Meanwhile, the reformation of the media legislation was supposed to contribute to the greater diversity of the media environment in Armenia.

For a long time the authorities explained the impossibility of administering competitions, where “A1+” could take part, by lack of vacant frequencies. However, this argument sounded quite lame, as despite the demands of journalistic organizations and recommendations by international experts, the findings of the frequency audit in Armenia have not as yet been published. This audit was ordered to the Canadian Aerosystems International Inc., but the report was not accepted by the RA Government and was sent for improvement. There are serious grounds to believe that in reality Armenia does have frequencies in its diapason allocated for TV broadcasting, which are not used.

In September 2011, upon a proposal from the President of Armenia, the RA Human Rights Defender formed a working group to develop another draft of legislative amendments. These amendments were to become a legislative base for digital broadcasting and for its regulation in accordance with international standards. Yet the procrastination in reforming the broadcast legislation and the unpublished frequency audit remain an obstacle for the improvement of the situation.

The RA Law “On Advertising” was adopted by the parliament on April 30, 1996. Further on it was repeatedly amended. On June 26, 2002 the ban on advertising strong alcoholic drinks, except brandy, and tobacco products was introduced for broadcast media, as well as for placing such advertising on the first and the last pages of newspapers, on the cover, the first and last pages of magazines.

On May 26, 2011 a package of amendments was adopted into the RA Laws “On

Advertising” and “On Television and Radio” that increased significantly the permitted volumes of advertising on the air, including the air of the public service broadcaster. However, as the numerous researches of Yerevan Press Club<sup>2</sup> and “Asparez” Journalists Club of Gyumri<sup>3</sup> show, the advertising limits remain virtually unobserved by the majority of leading TV channels, and no sanctions are applied against them.

## **Broadcast Media Market**

The first non-state (cable) TV companies started to appear in Armenia as far back as in late 1980s. With the course of time the “cable” broadcasters passed on to terrestrial broadcasting and launched a production of their own. By mid-1990s there was already around a dozen private TV companies; the first private radio stations appeared. A characteristic feature of that period of time was the absence of any specific rules for licensing and regulation of broadcasting. The issues of providing air and conditions for operating TV and radio companies were resolved by officials of the Ministry of Communications individually.

In 1996-1997 the country began overcoming the acute energy crisis, and it is at that time, when the number of broadcasters started to grow dramatically. The TV companies were mostly of general nature, and the radio stations mostly worked in news and music format. Serious competition between the broadcasters unfolded for both the audience and advertising revenues. This competition became particularly strong in 2000-2001, when the number of broadcasters in Yerevan only exceeded ten.

Upon its accession to the Council of Europe in January 2001, Armenia, among other commitments, also took the obligation to transform the state broadcasting into public service. Yet no principal changes ever occurred in the activities of the main broadcaster of the country, it was and it remains under the control of the executive power.

The results of the first broadcast licensing competitions, announced in 2002, changed the situation on the market significantly. Apart for “A1+”, known for its oppositional reporting, “Noyan Tapan” TV channel - a broadcaster also indulging in strong criticism of authorities - disappeared from the TV screens. Shortly before the competitions a company that used to provide air to “Noyan Tapan” refused cooperating with it - supposedly, because of political pressure. The attempt to get back on air through taking part in a broadcast licensing competition ended for “Noyan Tapan” in the same way as it did for “A1+”. The fate of the two TV channels became a good lesson for all the others. The national and the Yerevan air became void of broadcasters with independent editorial policy and striving to provide diverse news reporting. Various forms of implicit censorship became common.

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<sup>2</sup> [http://www.ypc.am/media\\_research/ln/en](http://www.ypc.am/media_research/ln/en)

<sup>3</sup> <http://asparez.am/news/news2011jan/14.01.2011-h1-advert-violations.htm>

The characteristic features of broadcasting industry in Armenia are the impressive number of broadcasters on a relatively small advertising market, their concentration in the capital of the country, the significant prevalence of TV stations over radio stations.

Till the competitions of December 2010 in Armenia there were 42 licensed private TV channels: 16 - in Yerevan and 26 - in the regions<sup>4</sup> . Since January 21, 2011, the number of broadcasters reduced. Besides the Public Television of Armenia, there are 15 private TV channels: 6 are nationwide, one of them being allocated for rebroadcasting of foreign broadcasters, and 9 are in Yerevan (of these three are rebroadcasters). Besides, 10 regional TV channels - one for each of Armenian regions - were licensed to broadcast in the digital network. The regional TV companies that did not take part in the competitions or lost them will continue analogue broadcasting till the end of 2014.

Most of the private TV channels are owned by politicians and major entrepreneurs, associated with the authorities. Virtually the only TV broadcaster with independent editorial policy is “GALA” TV company of Gyumri. Since 2007 this company has been experiencing pressure from various power structures. As a result of a litigation that lasted almost four years the Gyumri municipality received the court ruling, obliging “GALA” to stop the use of the city TV tower and to disassemble the equipment installed there. This TV company was one of the four participants in the competitions of December 2010 that were not licensed to broadcast in a digital network. If nothing changes, “GALA” will thus lose air in early 2015.

Besides the Public Radio of Armenia, today there are 17 private radio stations broadcasting in the country<sup>5</sup> .

## CHAPTER II. PRINT MEDIA

### Legal Framework

Article 27 of the RA Constitution (the renewed Main Law was adopted by a referendum on November 27, 2005) states: “Everyone shall have the right to freely express his/her opinion. No one shall be forced to recede or change his/her opinion. Everyone shall have the right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers.”

The activities of print media are regulated by the RA Laws “On Mass Communication”, “On Freedom of Information”, “On Advertising”, “On Copyright and Adjacent Rights”, and a number of others.

<sup>4</sup> According to the data, placed on NCTR website [www.tvradio.am](http://www.tvradio.am)

<sup>5</sup> According to the data, placed on NCTR website [www.tvradio.am](http://www.tvradio.am)

The first RA Law “On Press and Other Media Outlets” was adopted on October 8, 1991. With insignificant amendments it remained in force till February 2004. On December 13, 2003 the National Assembly of Armenia approved the new RA Law “On Mass Communication” that came into force on February 9, 2004. Its adoption was preceded by debates of almost two years regarding the concept and the content of the Law. As a result of the efforts of the local journalistic community and the principal support of the international organizations, Yerevan Press Club, Internews and Journalists Union of Armenia managed to arrive at constructive cooperation with the RA Ministry of Justice and the specialized parliamentary committee. Instead of the repressive draft law as expected initially a rather liberal one was adopted.

First of all, the media registration was abolished. Previously, this procedure had repeatedly become a serious obstacle for opposition and independent press. Besides, the Law stipulates reliable protection of information sources. Later corresponding amendments were introduced into the RA Criminal Procedure Code.

On May 18, 2010, the amendments introduced into the Civil, Criminal and Criminal Procedure Codes of Armenia decriminalized libel and insult. At the same time, the moral damage compensation was introduced. The new provisions stipulate sanctions for libel amounting to 2 million AMD (around 4,000 euro), and a fine for insult reaching 1 million AMD (around 2,000 euro).

The decriminalization that was greeted by international structures, in practice made an ambiguous effect and to a certain degree became a tool for restricting freedom of expression. In the course of draft law discussion the journalistic associations repeatedly pointed out that the hasty introduction of the institute of moral damage compensation will create financial risks to the existence of certain media. It could become an effective mechanism for restricting unconscientiously journalism, had there not been serious doubts regarding the independence of the judiciary. Granting the courts the power to arbitrarily define the public impact of an article in question along with the size of damage, neglecting the public significance of information disseminated, as well as the financial condition of the respondent were in fact prescribed in the amendments to the Civil Code.

The very first cases of the application of legislative innovations confirmed the worst fears. If previously rare cases of defamation suits were observed, during the very first year after the decriminalization the courts received around 15 cases against media, primarily - newspapers. In the vast majority of cases the plaintiffs represented political and business elite, who demanded the maximum compensation amounts. Only the family of the Second RA President Robert Kocharian filed three similar suits against various newspapers. The courts were inclined to secure the demands of the plaintiffs in full.

Certain hopes to change these negative trends dealt with the tracing of the situation by international organizations and with the creation of an informal consultative body, the

Council on Information Disputes that includes reputable representatives of journalistic and expert community. The Council, formed upon the initiative of the ombudsman, makes expert assessments on defamation cases, basing on international standards, in particular the case law of the European Court of Human Rights.

### **Print Media Market**

Gaining of independence by Armenia resulted in a boom of print press. By mid-1990s there were around 500 periodicals registered. By the assessments of media experts, years 1990-1992 became the “Golden Age” of the Armenian journalism. This was primarily due by the relative press tolerance of the post-Communist forces who assumed power. The traditional Armenian parties that returned from exile founded their own newspapers in the county - “Azg”, “Yerkir” - enriching the mosaic of Armenian periodical press.

Yet already by the end of 1992 the media, primarily the print ones, started gradually retreating from the ground gained. The objective reasons for that were the Karabagh war and the blockade, the energy and the general economic crisis. The country experienced an acute shortage of newsprint, the prices of publishing services increased sharply. This adversely affected the profitability of newspapers and magazines, and many of them were simply shut down.

At the same time, it became more and more evident that the ruling elite was not interested in the development of independent media and plurality of opinion. The authorities were retreating from democratic principles, also in the media field. In late 1994-1995 the persecutions of opposition press reached their peak - “Dashnaktsutiun” party was eliminated from the official political arena, and along with it, editorial offices of 13 periodicals that were directly or indirectly affiliated with the party were shut down.

When making an overall assessment of the situation, one can say that the institute of independent print media in its traditional understanding has not been formed in the country. The main reason for that is the economic hardships of the Armenian press that induces it to rely on sponsors under the circumstances of the underdeveloped advertising market and low purchasing power of the population. The latter ones, when supporting newspapers, normally follow their political ambitions. As a consequence, the majority of print media turned out to be divided into political and nepotistic camps. The dependence of media on narrow interests impedes the free dissemination of independent opinion and information, results in lowered trust in media and cuts in circulations. At the same time, due to the accessibility of press for the opposition, the level of plurality here is much higher than in the case of broadcasters.

The factors noted resulted in acceleration of the trend for extinction of “paper” media. Yet the increasing Internet penetration and the development of social media gave the “textual” journalism a chance of the second life. Newspapers rushed into the Internet,

and almost every newspaper today has its online version. In 2011 the movement towards the convergence of traditional and alternative media became noticeable.

Currently the print media market of Armenia has 13 dailies and 49 publications issued at least once a week. The daily newspapers are published only in Yerevan, their overall daily print run is about 45,000 copies. The maximum print run is stated by “Haikakan Zhamanak” daily - 6,500-8,000 copies. 27 regional newspapers have regular publication, at least once a month, their aggregate print run is around 30,000 copies.

## **CHAPTER III. NEW MEDIA**

### **Legal Framework**

As of today, there is no legal regulation of this segment of information sphere. Only the Internet service provision is to be licensed. The activities of online media are regulated by the general media legislation. Besides, the RA Law “On Freedom of Information” has an article, obliging state bodies to place public information on their websites.

However, the absence of special regulation of new media does not protect them from the arbitrary unofficial intervention into their activities via the IS providers, obedient to the authorities. The protest actions that followed the presidential elections of February 19, 2008, resulted in an emergency rule of 20 days duration since March 1, 2008 in Yerevan. The decree of the RA President on state of emergency stipulated, in particular, that “media periodicals on issues of state and inner politics can be made only within the official communications of state bodies”.

While these restrictions did not envisage prior censorship, it was, however, applied not only in Yerevan, but also in regions, where no emergency rule was declared. A number of publications, facing illegitimate obstacles, refused to work as they had no chance to voice opposition and critical viewpoints. Rebroadcasts of programmes of the Armenian Service of Radio Free Europe/Radio Liberty were stopped, and the station’s websites were blocked. Meanwhile, the pro-governmental media published and aired not only the official communications, but also one-sided political propaganda that was discrediting the opposition.

Immediately after the emergency rule was imposed all news resources on the Internet that allowed for criticism of authorities were blocked. YouTube was blocked too, as there were video materials about the tragic events of March 1, when the opposition protest action was dispersed, resulting in 10 deaths. Users resorted to various tricks, allowing accessing the websites blocked through anonymizers or external proxy servers. Some websites placed their news in blogs.

Journalistic and human rights organizations of the country appealed to hold the state

bodies accountable for the illegitimate censorship and inaction with regard to pro-governmental media who violated the emergency rule. Yet no measures were taken either during the emergency rule nor afterwards.

The Law “On Television and Radio” allows broadcasting in Armenia only on the basis of a license, thus enabling broader interpretation and representing a potential threat to streaming broadcasting. The National Commission on Television and Radio repeatedly announced that such ban is possible. However, no practical steps have been taken in this regard, and a number of Internet portals, including “A1+”, continue broadcasting on the Web. The behaviour of authorities during the periods of heated political rivalry, in particular, another cycle of national elections in 2012-2013 will show the extent to which this form of media activities is protected from the voluntary interventions.

### Online Media Market

The first to use the Internet were the news agencies. In early 1995 on the server of “Arminco” ISP the textual site of “Noyan Tapan” news agency was placed. Later “SNARK”, “Armenpress” and others had websites of their own, too.

In 1995-1996 online versions of several newspapers appeared too, yet they were not updated regularly and were, in fact, demonstrational. The first active online version among print media was the website of “Aravot” daily. Today the situation is drastically different. All regularly issued newspapers have their Internet versions. Many TV and radio companies have their websites.

Recently particular activation can be seen among “pure” online media. Their number increases with every month. Civil journalism develops intensively, too. In August 2010 ArmFeeds.com quoted 8,687 registered individuals blogs. Within the following six months their number grew to 18,023. Yet, in the opinion of experts, only half of them is more or less active.

According to Socialbakers.com, as of June 22, 2011 the number of Facebook users in Armenia made 177,800 versus 110,000 - in January. According to Alexa.com, the most popular sites in Armenia are Google, Facebook, YouTube, Odnoklassniki.ru. According to circle.am (Armenian web-rating), the most popular in the section of “News and Media” are News.am, Regnum.ru, Tert.am, A1plus.am, ArmSport.am, ARMENIA Today, 1in.am, Lragir.am, Aravot.am, Armtimes.com<sup>6</sup>.

According to official data, if in 2009 in the country the number of mobile Internet users came to 1.1 million, in 2011 it made 1.7 million. The number of broadband Internet users increased from 70 thousand in 2009 to 240 thousand in 2011. It is also important to note that the Internet tariffs reduce along with the growth of user numbers.

<sup>6</sup> Rating data of circle.am for the period of March 10 - April 9, 2011

## CHAPTER IV. ACCESS TO INFORMATION

The RA Law “On Freedom of Information” was adopted on September 23, 2003. It is based on the principles of Article 10 of the European Convention on Protection of Human Rights and Fundamental Freedoms, as well as on Article 27.1 of the Armenian Constitution, which says: “Everyone shall have the right to submit letters and recommendations to the authorized public and local self-government bodies for the protection of his/her private and public interests and the right to receive appropriate answers to them in a reasonable time.”

The idea of adoption of the Law “On Freedom of Information” and the development of its draft law originated with a group of non-governmental organizations; further on a corresponding legislative initiative was made by two MPs. Thus, the Law became an example of constructive cooperation between the authors of the draft, the specialized parliamentary committee and NGOs.

In the Law the information holders, obliged to provide information to citizens, are distinctly defined, and a five-day deadline for the reply to written inquires is prescribed. If certain work must be performed to provide the information, the timeframes for that is defined to be 30 days, with the information holder being committed to notify about this the inquirer within five days. An oral response to an oral inquiry must be made immediately or within the shortest time span possible.

The Law lists also the grounds for the refusal in providing information - if it: contains state, official, bank or commercial secret; violates the secret of private or family life of a person, including the secrecy of correspondence, telephone conversation, postal, telegraph and other communication. The refusal is also stipulated for the inquiries regarding the data of preliminary investigation not to be disclosed, data of restricted access due to professional activities (medical, attorney or notary secrecy) or related to the protection of copyright and adjacent rights.

At the same time, the Law has certain deficiencies. In particular it stipulates that the refusal to provide information can be challenged in a competent administrative body or in the court. However, no specification is made as to which administrative body is competent.

Yet the main problem is the continuing absence of sublegislative acts, stipulated by Articles 5 and 10 of the Law, the purpose of which is to define the procedure for providing information by state and local self-administration bodies, state institutions and organizations, as well as the procedure for registering, classifying and storing the information. This often becomes a pretext for non-provision of information.

A number of non-governmental organizations, primarily the Freedom of Information Center, “Investigative Journalists”, “Asparez” Journalists Club of Gyumri consistently

monitor the cases of refusal in information (primarily of public significance) and initiate litigations. The courts in most of the cases secure such suits, but as a rule they decline the demands to hold the offending officials accountable, particularly, in the case of high-ranked officials. The execution of the court rulings remains a problem, too.

## CHAPTER V. MEDIA SELF-REGULATION

Around a dozen of Armenian media and the majority of journalistic associations have ethical codes of their own. The first attempts to create common media self-regulation mechanisms were made after the presidential elections of September 1996 and in March 1998. During the election campaign of 1996 upon the initiative of Yerevan Press Club a Public Observation Council of Journalists was established. The Council developed and adopted the Memorandum “On the General Principles of Armenian Media Participation in the Coverage of Presidential Elections”. Ahead of presidential elections of 1998 heads of 33 media signed a similar Memorandum, stating their readiness to engage in fair and objective coverage of pre-election campaign.

On January 9, 2007 the Yerevan Press Club addressed the media community of Armenia with a suggestion to jointly develop the main norms of professional ethics and follow them in their daily work. On February 2, 2007, at the meeting of media representatives who supported the YPC initiative, a working group was formed. The working group developed the Code of Conduct of Media Representatives and the Declaration on Election and Referendum Coverage Principles, narrated in an Appendix to the Code. The documents were adopted and signed on March 10, 2007 at a meeting of heads of media and journalistic associations (as of July 1, 2011, the Code and the Declaration were signed by 44 media of Armenia, the initiative is also supported by 9 journalistic associations). On March 10, 2007, the Media Ethics Observatory (MEO) was elected, listing 7 members.

The mission of the MEO lies in the consideration of complaints and appeals about violations of the Code of Conduct and making appropriate judgments. The representatives of media who joined the initiative acknowledged the right of the MEO to consider the compliance of their materials with the provisions of the Code and stated their readiness to place on their pages and in their air the judgments of the MEO on the complaints regarding them. As of June 2011, the MEO made 26 judgments/decisions<sup>7</sup>.

Along with this, upon the initiative of journalistic associations an attempt was made to introduce the institute of internal ombudsman in media. The pioneers in this were “Aravot” daily and “GALA” TV company, yet this initiative was short-lived, primarily because of financial difficulties. Thus, despite the continuing preparatory and promotional work of Yerevan Press Club and partner organizations that preceded the introduction of self-

<sup>7</sup> [www.ypc.am/self\\_regul/ln/en](http://www.ypc.am/self_regul/ln/en)

regulation mechanisms the public is still insufficiently aware of them and does not attach due significance to them. The majority of leading media, including the Public TV and Radio Company, remain out of self-regulation system. Among the main reasons there is the political dependence of the actors in media domain and their lacking readiness to bear purely professional responsibility for their product; the absence of traditions of quality press and its public accountability in Armenia; low levels of public trust in media and their not being seen as an independent institute.

Under the circumstances the attempts to impose professional norms on the journalistic community from the outside are quite frequent. Thus, the expert commission established at the National Commission on Television and Radio publicized in February 2010 the draft criteria for erotic TV and radio programmes, films, containing violence and horror, as well as programmes that can adversely impact the health, mental and physical development, upbringing of minors. Some of these criteria caused doubts, primarily, due to the vagueness of their definitions, allowing for broad and subjective interpretation. Thus, for example, who and how can determine the cases of “discrediting and denigrating national figures, cultural heritage” or “distortion of historical developments”? The authors of the criteria refer to “general education curricula” as an irreproachable reputable source, while it is quite questionable, since these curricula are also prone to serious criticism. Yet even if the quality of these curricula was ascertained, does this mean the TV and radio programmes, including discussion programmes, cannot offer the audience approaches that differ from textbooks?

On April 21, 2010 over ten TV companies signed the Charter of Ethical Principles of TV and Radio Broadcasters of the Republic of Armenia - upon the initiative of the Public Council at the RA President. This collective signing of norms of professional ethics by TV companies seemed odd at the first glance: the leading broadcasters for many years rejected the mere idea of following unified professional ethics standards. The reasons were quite mundane: the broadcast licensing competitions were drawing close, and ignoring the initiative of the consultative body, adjacent to the head of the state, during the period when the results of the competitions were not certain, was contrary to the interests of loyal broadcasters.

The only positive feature of such artificial campaigns in Armenia, claiming to substitute the real self-regulation, is the fact that they quickly pass into oblivion and make no serious impact on the development of media environment.

## **CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS**

There is no special legislative regulation of journalistic work in Armenia. As a consequence of liberalization of media legislation in 2003 the definitions of rights and responsibilities of journalists were abolished. The Law “On Mass Communication” contains a definition saying that the journalist, as an individual on an important

public mission, enjoys the special protection of the state. Yet this provision is of purely declarative nature, with only, as mentioned above, the legislative protection of information sources of journalists being provided.

The specifics of the profession condition the additional difficulties as concerns the control over the labour rights of journalists - violated commonly in Armenia. The existing procedures for employment and dismissing from work are often not respected. Reasons for frequent changes of jobs are the non-coinciding of political and other views with media owners and heads. There are no really operational independent trade unions of media or other industries in Armenia. The institute of collective contracts is absent whatsoever. The "black" payments for journalistic work (cash in envelopes) remains a common way of remuneration, a fact that creates problems with fiscal commitments and social security. The very rare labour disputes are normally resolved in the favour of the employer.

The leading journalists of the most influential media can be classed as well-paid professionals. However, the divergence in the remuneration of journalistic work for the small Armenian media market is quite big - the lowest and the highest salaries can differ more than ten times. The highest salaries are in the national TV companies, the lowest are in regional media, where they are sometimes inferior to the general average.

On March 4, 2004 the Government approved the Model Procedure for the Accreditation of Journalists at State Administration Bodies. On the basis of this sublegal act the state bodies and institutions defined their accreditation rules. Despite the fact that the Model Procedure contains certain technical restrictions, it does not create significant problems for the reporting on the activities of the executive power. The difficulties are related primarily not to the procedures, but rather to the closedness of specific officials and communication policies of certain structures. In particular, the criterion of loyalty traditionally plays a certain role in the interrelations of the RA President's Office and media.

At the same time unjustified - in terms of effective journalistic work - restrictions were introduced on August 21, 2009 in the new Procedure for Accrediting Journalists at the National Assembly of Armenia. Thus, the accredited journalist can visit parliament without a special permission only during the sessions of NA, the standing committees of the parliament, briefings, press-conferences, parliamentary hearings as well as other events announced by the NA press-service. Some of the conditions for provision and early suspension of accreditation allow the leadership of the legislature to differentiate the media and implement implicit censorship are also wrongful.

In terms of the working conditions of Armenian journalists one of the main problems is their physical safety. On December 28, 2002, a tragedy, unheard of in the media history of independent Armenia, took place: a well-known journalist, the Chairman of the Council of Public TV and Radio Company of Armenia Tigran Naghdalian was

killed with a shot at his head. The disclosure of the crime was also unprecedented: this was the first case when both the implementers of the act of violence and those who commissioned it were found and punished. It should be noted, however, that the opinions with regard to this scandalous case were divided. A part of public and some of the colleagues of Tigran Naghdalian doubted the objectiveness of the investigation and spoke about the assassination as of a pretext to settle accounts with political rivals. Fortunately, this assassination of journalist remained the only one. However, the cases of physical violence against journalists continue, and during the past ten years, over 70 cases have been recorded<sup>8</sup>. In the vast majority of cases the incidents remain undisclosed, and the real “clients” were never found. The lack of punishment makes the problem particularly sensitive.

The cases of imprisonment of journalists are not frequent, yet they have purely political motivation behind them. The Chief Editor of “Zhamanak” opposition newspaper Arman Babajanian was convicted in 2006 for document fraud to evade compulsory military service. Despite the mitigating circumstances and the time limitation the journalist was sentenced to imprisonment term, close to the maximum, prescribed by the appropriate Article of the Criminal Code - 3.5 years. Arman Babajanian made four petitions for early release, however, despite the impeccable behaviour, the appeals of local and international organizations, he was released only on August 4, 2009, six weeks ahead of the end of the full sentence - because of the dramatically worsened health condition.

In July 2009 the Chief Editor of “Haikakan Zhamanak” daily and an opposition politician Nikol Pashinian was arrested. In January 2010 he was convicted and sentenced to seven years’ imprisonment for organizing mass disorders on March 1, 2008 (the term in future was shortened by half through amnesty). In a number of reports by international organizations the status of Nikol Pashinian was defined as that of a political prisoner. At the same time, after the conviction he continued to engage in journalistic activities that were impeded by the penitentiary administration during his last months in prison. On May 27, 2011 Nikol Pashinian received the second amnesty and was released. This step of the authorities should be considered in the context of the political dialogue of the authorities and the opposition.

## **CHAPTER VII. INTERNATIONAL COOPERATION**

Since mid-1990s many international organizations implemented programmes of media support in Armenia. Consistent attention to legislation improvement is paid, in particular, by the OSCE and the Council of Europe. The political commitments of Armenia to these structures per se call for further harmonization of media legislation with international standards. This is advanced by specific recommendations, expert assessments of the draft laws. The European Union, in the frames of programmes of cooperation with

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<sup>8</sup> Data provided by “Asparez” Journalists Club

Armenia, also reflects the media domain priorities in respective documents - country reports, action plans, etc.

In particular, due to the effective cooperation between international organizations and the civil society of Armenia the rather liberal Laws “On Mass Communication” and “On Freedom of Information” were adopted, the draft amendments on decriminalization of libel and insult was improved significantly from the original, quite deficient version.

The efforts of international community proved less effective in the broadcasting domain. Despite the close attention of the Council of Europe, the OSCE and the US Government to this problem, since 1997 both the broadcasting legislation and its implementation remain an issue of serious concern. The main reason is the reluctance of Armenian authorities to lose the monopolist control over the most important tool of political propaganda. To a certain extent this was a consequence of insufficient consistency and insistence of international partners in advancing the broadcasting reforms. At the same time, the numerous PACE resolutions, the ruling of the European Court of Human Rights on the case of “A1+” TV company, the recommendations of international experts define quite specific agenda of necessary changes that would allow enhancing the freedom of expression and media diversity in the country.

Since 1995 the US Agency for International Development has been implementing major media support projects in Armenia. They are directed to the development of independent broadcasters, improvement of professional skills of journalists and media managers, the business development of media, etc. Since 2010 the USAID has been supporting the four-year project “Alternative Resources in Media”, implemented in a joint effort of Internews Network international organization and its Armenian partners. The project is directed to the dissemination and access to diverse information through use of modern technologies in traditional and new media.

The media domain is a priority for the Open Society Institute (Soros Foundation) in Armenia. Since late 1990s the Foundation has been supporting numerous and large-scale research and training programmes for media, production of independent content in traditional and online media, initiatives to protect freedom of expression, etc. Armenia was one of the countries where the Foundation studied the process of digitization in 2010.

Consistent support to media development is provided by Eurasia Partnership Foundation, Friedrich Ebert Foundation, Governments of the US and UK, etc. In particular, these donors during the recent years assisted the implementation of many programmes on regional cooperation of journalists that covered the Caucasus and Turkey, on enhancement of the media role in conflict resolution. The programmes include joint media production on the urgent issues of the region, researches of hate speech with recommendations regarding overcoming it, training sessions to counteract the displays of information wars. Owing to these programmes and contrary to the growing

tension in the relations between Armenia and Azerbaijan, constructive professional interaction between the journalistic organizations of the two countries continues. Under the project, supported by the USAID, in 2011 a joint annual award was established for journalists of Armenia and Turkey.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOs**

Founded on March 27, 1959, the Journalists Union of Armenia (JUA) remains the largest journalistic organization, having 1,500 members. It is an associate member of the International Federation of Journalists and the International Confederation of Journalists Unions. The main emphasis of JUA activities is on the social problems of media employees, educational programmes. In cooperation with other journalistic associations the JUA was involved also in the process of reformation of media legislation.

Yerevan Press Club was founded in July 1995 and was the first professional association of journalists, created in the post-communist Armenia. YPC regularly administers various media researches, is actively involved in lawmaking, produces independent content of public significance. This journalistic association is involved in a number of important regional initiatives in South Caucasus, in the dialogue between Armenia and Turkey, as well as in the activation of the role of civil society in the process of European integration.

Internews Media Support public organization was also founded in 1995. It provides various support to broadcasting media of Armenia, has extensive experience in working with schoolchildren and students, contributes to the introduction of modern technologies into the media domain, to the quality video and audio production. Throughout their existence Internews and YPC have been in close and effective cooperation on the majority of priority directions.

During the past 15 years in Armenia more than ten other journalistic associations were established, specialized in certain directions, aspiring to make more active the professional communities in the regions. These include “Asparez” Journalists Club of Gyumri, “Investigative Journalists”, Freedom of Information Center, the Committee to Protect Freedom of Expression, Media Diversity Institute-Armenia, Goris and Vanadzor Press Clubs, etc.

Most of the journalistic associations are in long-term partnerships, have coordinated approaches in the issues of supporting and developing independent and quality media, protection of freedom of expression, information and rights of journalists, improvement of legislative and economic conditions of media. At the same time, all attempts to develop industrial media associations fail. These associations either collapsed after some time, or the initiatives for their establishment were unsuccessful from the very

start. The main reason for that is that the Armenian media still face problems developing into independent businesses.

## CHAPTER IX. JOURNALISM EDUCATION

The journalistic education in Armenia is a little more than 50 years old. Its launch and development are directly linked to the Yerevan State University. The division of journalism at the Philology Department of YSU was created after the similar division opened in 1947 at Moscow State University. On October 1, 1999, YSU opened the Journalism Department, which today operates a three-degree academic system: undergraduate, graduate and postgraduate.

In 1993 at the Culture Department of the Khachatur Abovyan Armenian State Pedagogical University a division of TV and radio journalism was opened. The students were trained both in creative studios and during theory classes.

Journalism Department started to operate also since 1999 at the newly opened Russian-Armenian (Slavic) University in Yerevan. The curricula of the Department offer four majors: periodical press, TV journalism, radio journalism and Internet journalism.

The experience of Brusov Yerevan State Linguistic University is quite interesting. In 2004 in cooperation with Yerevan Press Club, and further, with Netherlands organization PressNow, “International Journalism” Academic Center was established that became an independent department of the University in September 2010, having its own undergraduate and graduate programmes.

During the independence of Armenia dozens of private universities appeared, many of them having journalism departments. Their main task - similarly to the state universities - was the transition of journalistic education from the old Soviet system to a new one, complying with the modern requirements to the profession. Since late 1990s the foreign donor and specialized organizations as well as the local journalistic associations made a significant effort to translate professional literature, develop modern curricula and methodologies, training of trainers, creation of new Armenian textbooks.

During the post-Soviet years alternative forms of journalistic education and training became quite common. Many media representatives, particularly from broadcast media, were trained at various courses of Internews. The training at the courses for TV professionals of “Meltex” LLC (“A1+” TV company) paved the way for numerous producers, cameramen, TV journalists.

Specialized several-month training courses for journalists of different countries of the region were held by the Caucasus Media Institute, established in 2002 and further renamed to Caucasus Institute. In 2006 the Institute was licensed by the RA Ministry of

Education to hold graduate programmes in journalism. The main method of teaching here is the provision of general knowledge, necessary for journalists (political science, economics, etc.), in combination with practice.

Alternative methods of training, based on the professional interaction with well-known practicing journalists, are offered by the Television and Radio Academy, founded in 2000. The various short and long-term programmes of training for journalists are held also by other local journalistic associations, as well as foreign organizations - the International Federation of Journalists, "Article 19", Thomson Foundation, European Journalism Centre, Institute of War and Peace Reporting, etc.

Thus, there is no lack in programmes or initiatives, and the main problem that impedes the Armenian journalistic education from reaching the modern level is rather the absence of adequate demand for professionals that have command of international standards. As a consequence, the majority of young professionals prefer to shift to adjacent professions.

# **AZERBAIJAN MEDIA LANDSCAPE**

## **CHAPTER I. BROADCAST MEDIA**

### **Legal Framework**

The Constitution of Azerbaijan contains articles that define the main principles of media operation in the country, provides guarantees to freedom of speech and expression, to the right to free information exchange (Article 47 and Article 50).

The Main Law demands that the parliament defines a broad framework for media activity. The legislative framework for media, apart from the Constitution, is made up by the AR Laws “On Mass Media”, “On TV and Radio Broadcasting”, “On Public Service Broadcasting”, a number of other normative acts.

Yet up to year 2000, when the new law on media was adopted, there were no special legal norms regulating the operation of broadcasters in Azerbaijan. This law, too, failed to clarify the situation, leaving the solution of numerous problems in contingency of the political will of the country’s authorities.

The draft law “On TV and Radio Broadcasting” was submitted to discussion by the parliament in 2001, giving rise to heated debate. Not all the controversies between the legislators and journalistic associations were resolved in favour of the journalists, yet the enforcement of the Law in October 2002 was seen by the society of the country to be positive.

The Law says that the activities of the broadcasters are implemented proceeding from the principle of creative and professional independence, it also prohibits censorship. The right to found TV and radio companies is conferred upon the state, municipalities, the public service broadcaster, citizens of Azerbaijan in permanent residence on the territory of the country as well as legal entities, the equity capital of which is owned by such citizens. No political party or religious organization can be founder of a TV or radio company.

The Law provides for anti-monopoly restrictions. Each founder has a right to own only one broadcaster that cannot have more than two TV and three radio. The broadcasting is implemented on the basis of a special authorization - license, issued as a result of a competition for duration of six years. Following the request of the broadcaster, this term can be prolonged for another six years. In case the license terms or other requirements of the Law have been violated, the broadcasting can be suspended upon a court decision for a period of 1-7 days. The court can also annul the license, if it is established that: the TV company deliberately provided fake information to receive it; it did not start broadcasts within six months after receiving the broadcast license; spoke

in the defence of open appeals to violent overthrow of the state regime, to attempts to harm the integrity and security of the country, to incitement of national, racial and religious hatred, to mass disorders and terrorism.

This does not exhaust the list of restrictions stipulated by the Law. Yet the main point of controversy between the journalistic associations and the lawmakers was not the list, but rather the vague provisions on the National Council on Television and Radio (NCTR).

After the Law “On Television and Radio Broadcasting” was enforced, the presidential decree on approving “The Provision about the National Council on Television and Radio” was issued. The decree specifies that the Council is created with the purpose of implementing state policy in TV and radio broadcasting. The task of the NCTR includes the preparation of the concept for developing a single information space in the broadcasting, determination of technical and qualitative standards of broadcasting, administration of broadcast licensing competitions, license issuing, etc. NCTR consists of 9 members, appointed by the AR President for six years. However, the President cannot dismiss the Council members at his own discretion.

In September 2004 the Law “On Public Service Broadcasting” came into force. According to this Law, the Public TV and Radio Company has a status of an independent legal entity, it defines the form and the content of programming. The state issues the public broadcaster a termless and free license and broadcasting frequency. The Law defines the funding sources for the Public TV and Radio Company to be: sponsorship, donations from legal entities, revenues from advertising, sales of programmes and other production, other sources not prohibited by the law. Subscription fees are also to be introduced; the procedure for the introduction is to be defined by a separate normative act. It was initially expected that the state subsidization of the public service broadcaster will last till January 1, 2010, after which the subscription fee will be introduced. Yet on September 30, 2009 the parliament amended the Law, prolonging the deadline of state subsidization of the Public TV and Radio Company till 2014.

The governing body of the public service broadcaster is the Council of nine members, elected by the Parliament out of the candidates, nominated by the National Academy of Sciences, public organizations, sports federations, religious confessions and creative unions. Before the adoption of amendments to the Law “On Public Service Broadcasting” the Council elected the general director of the company, approved the director’s deputies, assembled for a session at least once every two months. After the amendments, the Council is now summoned once every six months, and the general director appoints the deputies independently.

## **Broadcast Media Market**

The Public TV and Radio Company was founded in November 2004 by a decree of the AR President on the basis of the Second Channel of the State Television and the

First Channel of the State Radio. Thus, contrary to Azerbaijan's commitment to the Council of Europe, the state broadcasting was not fully transformed into public service broadcasting.

The public television of Azerbaijan, officially named "ITV", is on air since August 2005. Today "ITV" is one of the biggest TV channels of the country that broadcast 24 hours a day. 70% of the air time is accounted for self-produced content, as well as other programming produced in the country. "ITV" is the only channel that allocates free airtime to the candidates during the election campaigns. Yet one cannot assert that the TV channel behaves in accordance with the principles of independence, diversity, absence of political bias - as the law prescribes it to behave. Despite the fact that the allocations from the state budget to the needs of the company are quite substantial (16.1 million manats [as of July 2011, 1 euro=1.14 manat] during the first two years of the broadcaster's existence, with further steady increase in subsidies), it pays much attention to commercial activities, contrary to the philosophy of public television.

The second TV channel in Azerbaijan that is funded by the state budget is the "Azerbaijan Television and Radio" CJSC ("AzTV"). This is the biggest and richest broadcaster of the country. More than half of the budget funds, annually allocated by the state to support various media organizations, is directed to this company - in 2010 the broadcaster received 30.1 million manats of state funding.

As far back as in 2005 the presidential decree of transforming "AzTV" state TV and radio company into a joint-stock company was released. The decree stipulated that 51% of the stock would remain at the hands of the government, with 49% being sold to the citizens of the country. Yet, as of July 2011 the state remains the owner of 100% of "AzTV" stock. The General Director of the CJSC is appointed and dismissed by the President of the country.

In 2008 the company won the competition, announced by NCTR to open a sports channel, in 2010 - won the competition to create a cultural channel. As a result, today "AzTV" owns three TV channels, which is a violation of the Law "On TV and Radio Broadcasting", prohibiting monopolization of air.

Besides from these two subsidized companies, there are five private TV companies in Azerbaijan, covering the whole territory of the country and aired also via satellite: "ANS", "Lider", "Space", "Azad Azerbaycan" ("ATV"), "Khazar". In their totality, they go on air on 10 channels ("AzTV" - 3, "ATV" - 2, and each of the remaining broadcasters takes one). Another 14 channels function in the regions.

The cable television came to Azerbaijan in 1997. In 2005 NCTR established rules, according to which the organizations engaged in cable broadcasting must be licensed, too. As of today, 14 companies have been licensed. In reality, only a third of these is operational. They provide paid services to the subscribers within the Apsheron

peninsula and the city of Sumgayit. None of the cable TVs has programming of its own; they rebroadcast local and foreign TV channels. In December 2010 the NCTR Chairman announced that a separate law for cable broadcasting was being prepared.

The low level of diversity, the small proportion of commenting and current affairs programmes, lack of significant debate - all this is typical for practically every Azerbaijan TV channel. This is particularly manifest during the parliamentary and presidential elections. The pro-governmental candidates, in terms of TV coverage of their activities, are much more advantaged than the opposition representatives who state they have no access to TV air.

Most of the airtime is taken by low-quality entertainment. The significant misbalance between the main functions of the television started to alarm even the authorities that control it. In October 2009 the Head of the Presidential Administration published an article calling upon the TV companies to seriously reconsider their air policy<sup>9</sup>. The appeal had a very short-lived effect.

The use of radio resources in the country is even more limited. There are 14 radio stations broadcasting in Azerbaijan: Azerbaijan State Radio, Public Radio, "ANS" FM, "Azad Azerbaycan", "Antenn", "Burj" FM, "Khazar" FM, 106 FM, "Lider" FM, "Space" FM, "Media" FM, "Araz" FM, Nakhchivan State Radio, "Voice of Nakhchivan". All of them, except the last two, operate in Baku. There is not a single private radio in the regions. Both radio stations in Nakhchivan are state-owned. The radio programmes are mostly music and entertainment that repeat themselves. The regulatory body, the NCTR, displays no interest in opening new channels.

Overall, the NCTR activities are largely questioned by the local and international organizations. Since 2008 it has only twice held competitions to allocate vacant frequencies for the creation of new TV channels. Both times, in violation of Article 15 of the Law "On TV and Radio Broadcasting", "AzTV" was announced the winner. According to the Article, "special authorizations (licenses) are granted for broadcasting, with the exception of the state and public service broadcasters". "AzTV" is a state broadcaster; hence it cannot take part in the competitions.

In 2012 NCTR is going to celebrate its tenth anniversary. During this time the Council has never published a list of vacant frequencies for TV and radio broadcasting, even though the law requires that these data be published in media annually.

When taking decisions NCTR sometimes is guided not by normative acts and professional principles, but rather takes into account the political balance of power. The Council did not hesitate to make a forewarning to "ANS" TV company for the inattentive attitude to the rules of programme broadcasting that can "harm the physical, mental

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<sup>9</sup> "Azerbaijan" newspaper, October 2, 2009

and moral development of children and minors as well as contain erotic and cruel content". Yet even under the pressure of the public NCTR did not consider the case of an outrageous infringement of the law by "Lider" TV company, when it demonstrated obvious pornography from the private life of the director of an opposition newspaper.

In early 2011 the Cabinet of Ministers of Azerbaijan ratified a new programme, "On Establishment and Development of Digital Broadcasting System DVB-T on the Territory of AR". The purpose of the programme is to ensure conditions for a full transition from analogue broadcasting to digital. This objective is to be attained in two stages. By the end of stage one (2012) digital broadcasting will be ensured in Baku, Gyanja and Nakhchivan, in the borderline areas of the country. Upon the completion of the second stage all the broadcasters will be refurbished with equipment that enables the reception of 2, 3, 4 and more packages, each of which can consist of 12 TV channels. At the same time the analogue broadcasting will be stopped.

The process of digitization started in Azerbaijan back in 2004. As of today it covers 35% of the population. However, the prospects of digitization are seen to be more vague by some TV companies and residents of Azerbaijan than by the authorities. As "Trend" news agency estimates, at least one million manats is necessary to reequip and to set up the infrastructure for the private companies to be able to operate in a new format. The vulnerable groups in the society who are unable to afford new TV sets are scared off by high prices on decoders to be installed on old TV sets to support the digital signal.

## CHAPTER II. PRINT MEDIA

### Legal Framework

The AR Law "On Mass Media" that regulates the operations of print media was enacted in Azerbaijan in 1992. In December 1999 it was renewed. During the subsequent years the parliament of the country repeatedly revised this normative document, introducing numerous amendments and additions into it.

The Law guarantees the freedom of media, the right of media to access to information, prohibits state censorship. The media freedom can only be restricted under an emergency rule. In all other cases impeding the dissemination of print production is disallowed unless an appropriate court ruling is available. The citizens, the officials and organizations that have violated the freedom of information and the rights of journalists bear civil, criminal and other responsibility.

Article 10 of the Law announces the abuse of freedom of information to be unacceptable. The notion of "abuse" here is understood to be "the use of media to disclose state secret, violent overthrow of constitutional regime and attempt to disrupt the integrity

of the state, propaganda of war, violence and cruelty, national, race, social hatred or intolerance, publishing, under the shield of “reputable sources”, of rumours, lies and stories humiliating the dignity of citizens, pornography, libel or commitment of other illegal actions”.

The right to establish print media lies with state bodies, municipalities, political parties, public and other organizations, agencies and enterprises as well as citizens in permanent residence in the country. No authorization from the executive is necessary; it suffices to notify the executive authorities seven days prior to the publication of the first issue. The establishment of media by legal and natural persons of foreign states is regulated by interstate treaties. The persons serving their sentence in prison, citizens, whose incapacity is confirmed by the court, parties and associations that are not registered by the state or whose activities are prohibited by the state cannot be founders of media.

A corresponding body of executive power has a right to address the court with a suit to suspend the activities of a publication, if it is determined that it functions without an official notification made by the founder to the body, or if the data specified in the notification is untrue. The activities of the publication can be temporarily suspended or stopped by the court in a number of other cases. The appointment to the position of the chief editor of a person without higher education or a foreign citizen can be a justification for the suspension of the publication for two months' time. The same measure can be applied against media that received an administrative punishment for the abuse of free media and rights of journalists, if the committed offense repeats within a year. The court decision about the suspension of the publication can be made in the following cases: when publishing appeals or information that seriously damages the integrity of the state, the security of the country and public order, dissemination of pornography; if the fact of illegal funding of the publication by foreign state bodies, forcing natural and legal persons is proved; as well as if the publication was brought to court for its articles for three times within one and the same year.

The Law “On Mass Media” defines the responsibility of journalists for abusing the freedom of media and their own rights. It says, in particular, that the editorial offices and media staff that disseminated the information, the disclosure of which is prohibited by the law, that published information without a reference to its source (except the cases reserved by the law), infringed the privacy of citizens, continued to produce and disseminate media production after a court ruling about the suspension or interruption of their activities, are under administrative, criminal or other liability. The most recent addition to Article 60 of the Law, adopted in 2010, says: “With the exception of the cases when investigation is being held, following an individual, making photo, video shootings, as well as audio recording of this individual without a consent or contrary to the individual's protest by mass media representatives and other persons, as well as other similar actions are a basis for holding them accountable according to a legally stipulated procedure”.

At the same time the Law provides for the cases when the editorial staff and the journalist are freed from liability for the dissemination of untrue information if: this information is disseminated by a state body or its press-service; is received from a news agency or a press-service; is borrowed from other media with no prior refutations; is a quote from official statements of the members of parliament, representatives of state bodies, municipalities, institutions, public organizations, politicians and officials; was voiced during live air or was contained in the texts that the law prohibits from editing.

## **Print Media Market**

In the history of the post-Soviet Azerbaijan journalism three stages can be distinctly defined.

The stage of initial establishment of independent media that started in late 1980s, during the national liberation movement, and lasted till 1995.

The second stage is characterized by a rapid development of media, appearance of new media, growth of print runs, increase in advertising revenues. This stage was the shortest and lasted three years, 1996-1998.

The third stage continues to this day. It is the stage of media market redistribution, accompanied by shocks, crises and struggle for survival of certain media.

As of March 2011, according to the report of the Presidential Administration, 4,300 media are registered. Of these, more than 4,100 are print media.

Yet the real number of newspapers and magazines published with a certain periodicity, similarly to ten years ago, come up to 250.

Around 80 regional newspapers are print organs of local executive power. In the vast majority of cases they are published not more than twice a month with a print run of up to 500 copies. Hence one can hardly speak about a serious role of regional press. Yet it should be noted that in three cities of the country - Yevlakh, Mingechevir, Masally - the publication of rather big weekly newspapers continues. Their print run varies from 3 to 5 thousand copies. The newspaper in Yevlakh exists through the support of local authorities, the two others - through grants and restricted advertising revenues.

The other category of newspapers is the departmental or industrial publications, disseminated through subscription. There are over 30 publications of this kind in Azerbaijan nowadays. The economic situation of such newspapers published two or four times a month, is stable as they are supported by state agencies and enterprises that fund them directly or organize the subscription. In certain cases the print run of such newspapers exceeds 20 thousand copies.

All national publications of Azerbaijan (up to 150 of them) are concentrated in Baku. The only newspaper published seven times a week is “Yeni Musavat” that has the highest print run among the political publications of the country (12,000 copies). 32 other newspapers classed as daily are published 5-6 times a week, their print run ranges from 1,000 to 8,500 copies.

The newspapers are subdivided into independent, partisan and governmental ones. The President’s Office is the co-founder of two political newspapers, the parliament and the Cabinet of Ministers - of one each. The partisan newspapers are not many, and they are not very popular, either. Most of the independent publications can be called such conventionally. Many newspapers that gained new legal status, after they changed founders, represented by political parties and their leaders, continue to demonstrate the obvious political bias. There are even more editorial staffs that are unable to ensure the sustainability of the publication given the extremely low advertising revenues and sales and hence they find clandestine sponsors, mostly in the power camp. These media thus become a propaganda tool, while retaining the official status of independent publication.

Only one out of two magazines registered (and their number exceeds one hundred) is published. They have a restricted yet a permanent readership. The specific target audience, the good quality of printing attracts advertisers, who are the main source of funding for the magazines. Most magazines are specialized (for children, women, men, about cars, etc.).

Only “Express” and “Zaman” newspapers have their own printing facilities. However, the print media overall do not experience a lack of production capacities. Today in Baku there are around 25 small and medium-sized printing houses and one state printing house, “Azerbaijan”, where most of the periodicals are published.

The distribution system of newspapers and magazines is a complicated one. The subscription accounts for a very insignificant proportion of the print run of independent and opposition newspapers. On the contrary, in the case of pro-governmental media the subscription rates reach 80% of the print run. Newspapers are sold for 40-60 gypik (35-53 eurocents). Five companies engage in distribution of newspapers and magazines. The street sales are very common. Along with major newspapers that have their own distribution channels, around 10 small companies are engaged in street sales of print production.

While the advertising revenues of broadcast media remain on the level of 1998, amounting to around 25 million manats per year, the advertising revenues of print media during this time became 10 times less, coming to less than 2 million manats in 2010. On the advertising market the major banks and mobile operators are dominating. The role of smaller and medium business in its formation is insignificant. The opposition

publications with the highest print runs have virtually no advertising. In the opinion of their heads, this situation is a result of a high level of corruption, monopolization in the country and ideological influence of the authorities upon the advertising market.

Thus, under the circumstances, the survival of print media without the attraction of funding from aside becomes almost impossible. The independent experts and heads of certain media call on to change these conditions, implementing reforms, meanwhile, the government offers money. In 2009, adjacently to the AR President the Fund of State Support to Media was established. Every year the Fund allocated from 5 to 40 thousand manats to 30-40 newspapers and journalists associations, holds competitions for the best journalistic story, holds various events. The amount of this support in 2009 came up to 1.3 million manats, in 2010 - to 2 million manats. Besides, the President allocated to the Fund additional 5 million manats to the construction of a residential building for journalists.

## CHAPTER III. NEW MEDIA

### Legal Framework

The development of new media is closely linked to the development of the Internet. The AR Ministry of Communication and Information Technologies maintains that today 50% of the population of the country are Internet-users. The data quoted by independent sources and international organizations are at least twice lower than this figure.

In Azerbaijan there is no separate normative act that regulates the activities of online media. In Article 3 “Main Notions” of the Law “On Mass Media” it is stipulated that the Internet is a form of mass communication media. Therefore all the legislatives norms on rights and obligations of media are directly related to the Internet, too. Nevertheless, until recently certain state bodies, such as NCTR, spoke about the need to adopt a separate law about the Internet, viewed by the society as an attempt to restrict the activities of online media. The arguments ended after in mid-2010 the representative of the Presidential Administration voiced the official stance of the authorities: “Azerbaijan sees no need to adopt a separate law on the Internet.”

### Online Media Market

The development of Internet media in Azerbaijan started in 1996. Today all news agencies of Azerbaijan operate online. Dailies have their own websites, and so do many magazines. There are over 10 Internet TVs and radios, their audiences are so far small, but the growth trend continues.

In the opinion of Azerbaijan Internet-Forum, out of one hundred websites and portals of Azerbaijan media, only 10 have real influence on the audience of the Worldwide Web.

If in 2009 their cumulative audience came up to 200-300 thousand visitors per months, by mid 2011 this figure is outweighed by only the online version of “Yeni Musavat” newspaper<sup>10</sup>. During the same period of time the number of blogs in the country increased from 200 to 5,000.

Along with it there are problems that hinder the development of online media in the country. Despite the significant price reduction in 2010 the Internet in Azerbaijan is several times more expensive than in the neighbouring Georgia, Turkey and Russia. Users complain of low speeds, little access to the Internet in the regions; the representatives of new media complain of undeveloped advertising market, technical and technological difficulties. As the Media Rights Institute (MRI) concludes in its report of 2010, “one cannot assert that the Internet media in Azerbaijan are free of pressure (...). The websites of radio “Azadlig” and newspaper “Azadlig” that criticize the authorities have repeatedly been subjected to cyberattacks, when access to these pages was for some reason blocked. The fact that these difficulties were encountered by users from within Azerbaijan implies that Internet-filters were used in the country”. Online journalists fear repressions from the government. Despite the fact that well-known bloggers Emin Milli and Adnan Hajizadeh, arrested in July 2009 on charges of public disorder, were released on early parole in November 2011, and in 4.5 months criminal proceedings were instituted against another blogger, Elnur Mejdli, who called on young people to join the protest actions.

Similarly to any social environment, the Web has its own laws and rules, regulating the behaviour of community members. In Azerbaijan similar rules were developed and adopted by the Internet-Forum of the country<sup>11</sup>. Called Internet-ethics, these rules are recommended for adoption by all users, including journalists.

## CHAPTER IV. ACCESS TO INFORMATION

The AR Law “On Access to Information”, adopted on September 30, 2005 by the parliament, entitles everyone to receive information held by any body of state power, municipality, legal and natural persons performing state functions, non-commercial organizations and non-budget funds that are fully or partly owned by the state, commercial structures, created with participation of the state, as well as legal entities that have a dominating position on commodity and service markets or are natural monopolies. The information inquiry can be submitted either orally or in writing. The responses should be provided within 7 days, and in case of urgency - not later than within 24 hours. The state body can refuse providing a response only if: it is not the holder of this information; the disclosure of the information requested is restricted by the law; it is impossible to define the specific subject of the inquiry; the author of the

<sup>10</sup> [www.musavat.com](http://www.musavat.com)

<sup>11</sup> [www.aif.az](http://www.aif.az)

inquiry is not entitled to receive this information or has not provided his identity. The refusal must contain a reference to the Law, and it can be challenged in court.

The Law classified information as belonging to the two categories - "open" and "restricted for receipt". The information with restricted access has two legal regimes: secret (state secret) and confidential (official, professional, commercial, investigative or court secrets, private data).

The timeframe of keeping state secrets is defined by a separate law. The access to information for official use (confidential information) can be restricted for five years at most, while private data can be restricted for up to 75 years.

The Law includes a list of information classified as information for official use (for example, on investigation of criminal or administrative offences). The Law also lists all kinds of information, the access to which cannot be restricted (on statistical data, on emergencies and calamities, the health of the leaders of the country, law infringements by state bodies and officials, etc.). All state bodies and municipalities must create Internet-resources, publishing there the information, the provision of which is their direct obligation, without inquiries from citizens.

To control the enforcing of the Law the position of Information Officer was to be set up. Yet this requirement was never fulfilled during the upcoming six years. Only in June 2011 the parliament made an amendment into respective legislation, giving up the idea of this position and granting the competence of Information Officer to the Human Rights Ombudsman.

The implementation of other provisions of the Law "On Access to Information" revokes criticism from international and local media-organizations. The studies by "Yeni Nesil" Journalists Union of Azerbaijan, MRI, "Article 19" international organization show that around 60-70% of information inquiries to the state bodies remain unanswered. 20-30% of responses contain a refusal to provide information. Only every tenth answer is comprehensive and is received within the timeframes legally stipulated.

In absence of productive mechanisms of control over Law enforcement the journalists prefer to obtain information through their personal networks or have to resort to rumours. However, over the past years the number of representatives of media and NGOs that appeal to courts has increased. In 2010, with the help of MRI lawyers, around 70 cases were challenged in court. In 11 cases the information owners satisfied the inquiries, without waiting for the end of the process. On four cases the courts made rulings in favour of authors of inquiries. The remaining plaintiffs were refused, mostly on the grounds that the information requested was either commercial secret or was for official use only.

The situation with the creation of Internet resources of the state bodies is better off. It

contributes to the reduction of inquiries, facilitates the access to information. Almost all state structures have their websites. However, they present, in average, only 40% of the information to be published on the Web according to the Law. The most closed are the data on budget and expenditures of state bodies.

## **CHAPTER V. MEDIA SELF-REGULATION**

Ensuring the journalistic solidarity and creation of a reliable self-regulation system is a task of future for Azerbaijan media. Even though the Press Council in the country was created over 8 years ago.

The presence of corporate ethics and solidarity is the primary condition for consolidating free media and effective functioning of self-regulation mechanisms. A number of journalistic associations seeks to form in the country a strong professional environment, based on ethical norms. However, the economic dependence of media, the large scales of corruption, including the media sector, actually impede the realization of such a model. A particular problem is created by the political bias of media, under the conditions of which many publications are in struggle against each other, guided not by professionalism, but rather by political interests.

The first Code of Professional Ethics in the country was developed in 1991 by the Union of Journalists of Azerbaijan. It was still governed by the spirit of Soviet propaganda journalism. In 1998 the founders of the Baku Press Club (BPC) - eight leading media - created a new code, based on the values and standards of modern European journalism. Yet this code was not supported by many other media of the country, thus becoming an "inner regulation" for the Club members.

In 2001 BPC decided to resort to another "breakthrough" method of "healthening" the journalistic environment. Analyzing the prospects of development of independent media in the country it started to get ready for the introduction of self-regulation mechanisms from "above". BPC was basing on the influence of its founders. In other words, it tried to trigger the usual logical scheme of influence "State of the Society"- "Level of Journalism"- "Press Council" in a reverse order: "Press Council"- "Level of Journalism"- "State of the Society".

The leaders of the biggest print media of the country supported the idea of the urgency of creation of the Press Council. On March 15, 2003 the First Conference of Azerbaijan journalists was held, during which, along with the Statutes of the Council, the Code of Professional Ethics was adopted by around 180 media.

The study of the eight years of Press Council's activities shows unfortunately that this was turned out to be unproductive, too. No qualitative changes either in the quality of journalism or the state of society occurred. The weaker the independent media grew, the

stronger the state control became; the Press Council as a self-regulation body started to lose its power. It continues improving the Ethical Code, even though, as monitoring show, the old Code is almost forgotten by journalists. The Press Council considers the complaints about media and makes judgments on them, yet these judgments are no longer published (according to the Statutes of the organization, the publication of the Council judgments is the duty of its members). The print media stopped paying annual membership fees to the Press Council. Its last conference was held in 2008. The Council realizes that it lacks the moral authority to influence the journalistic community and seeks to solve the issue by administrative methods. In April 2011 the Council directed an official letter to the parliament of the country with a request to pass a separate law enabling it to suspend the operations of publications.

## CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS

For many years journalism was considered a prestigious profession in Azerbaijan. Today it is the subject of criticism for authorities as well as businesses and citizens. The first group accuses journalists of lack of professionalism, the second - of being corrupt, the third one - of lack of principles.

Most of journalists are young people. The average age of the staff seldom exceeds 35 years. Over 50% of media staff are female. Yet they hardly account for more than 4% in the managerial positions (editors, deputy editors).

The salaries of journalists as compared to professionals engaged in other industries are low. An ordinary employee of independent media is paid an average of up to 300 manats per months. At the same time there are many editorial offices where journalists do not have a fixed salary, being paid for articles only. The monthly revenues of staff of governmental and pro-governmental media are at least twice as high.

The vast majority of journalists has no insurance. In many media no contracts are signed, or if they are signed, their validity lasts not more than a year, with journalists living in constant fear of losing a job.

The media staff, mostly in opposition newspapers, agencies and websites, are subjected to physical assaults, become victims of other offences. At the same time they themselves often are brought to court as a respondent. In 2010, 71 suits were filed against media and their employees. The majority of plaintiffs are public figures, officials. In 31 cases they demanded a criminal punishment of journalists and editors. While courts did hold journalists accountable within criminal legislation, they never defined imprisonment as punishment. (It should also be noted that in 2010-2011 all journalists serving sentences because of their professional activities were released from the prisons of the country.) By 40 civil cases journalists and media were penalized for a total amount of 37,500 manats.

The majority of court cases against journalists is related to defamation. The demand about the liberalization of media legislation and decriminalization of defamation in Azerbaijan has been voiced for several years by international organizations. An appropriate draft law, prepared by local journalistic associations with the participation of OSCE Baku Office, was presented to the parliament by a group of deputies in autumn 2009. Yet the authorities, quoting various reasons, procrastinated in reviewing the issue. Only in early 2011 the representatives of Presidential Administration announced that the draft law may be included into the agenda of autumn session of the parliament.

In 2010 the human rights organizations recorded 106 cases of attacks on journalists. The majority of victims are employees of opposition publications, while the majority of assaulters are representatives of law enforcement bodies and strangers wearing civilian outfits, taking part in “instilling order” during unsanctioned actions. Yet the most alarming circumstance is not so much the number of such cases but rather the lack of punishment for the individuals who violently impede the journalists from performing their professional duties. Seeing the idleness of the investigative bodies, in 2010 the journalists filed 10 court suits on the facts of assaults on them. Only in one case did the court make a ruling of punishing the offender by corrective unpaid labour, qualifying his actions as public disorder. Previously on similar cases the court sentenced the above-mentioned bloggers Emin Milli and Adnan Hajizadeh to 2 and 2.5 years respectively, and Ganimat Zahidov, Chief Editor of “Azadlig” newspaper, was sentenced to four years in prison.

The attacks on journalists in Azerbaijan continued into year 2011, too. During the mass actions of opposition in March-June 2011 dozens of journalists, covering the actions, were injured. On March 26, 2011 observer of “Azadlig” newspaper Seymur Haziyeu was beaten. A week later, another journalist of the same newspaper Ramin Deko was kidnapped and a day latter - beaten by unknown people. The criminal proceedings instituted on these facts remain uncompleted, too.

## **CHAPTER VII. INTERNATIONAL COOPERATION**

International structures and non-governmental organization follow the freedom of expression and media situation in Azerbaijan closely. They often make appeals to the authorities of the country about the necessity to hold democratic reforms. They also seek to be as involved as possible in the resolution of problems, constraining the development of Azerbaijan journalism.

Azerbaijan state and public organizations, specialized academic institutions are in most active cooperation with such international structures as the Council of Europe, OSCE, and during the recent years also, the European Union. Among international NGOs one can mention here “Article 19”, the Media Diversity Institute (MDI), European Journalism Centre (EJC), National Democratic Institute (NDI), International Federation

of Journalists (IFJ), Internews Network, etc.

The Council of Europe, OSCE and the European Union make serious effort to protect the rights of Azerbaijan journalists, liberation of arrested media representatives, bloggers. They also support the activities of local NGOs that seek to liberalize the media legislation, in particular, decriminalize defamation.

International organizations cooperate with the Government of Azerbaijan and a number of local NGOs in the field of expansion of access to information. The Council of Europe and OSCE implement projects to improve the professionalism of press-officers of state organizations, ensure their internships in European countries, assist the authorities in creating an “e-government”. The embassies of a number of European countries and the USA in Azerbaijan, major foundations sponsor monitoring programmes, awareness-raising campaigns of local NGOs and their foreign partners, opening of information, resource and media centres all over the country.

The broadest field for cooperation of international organizations with governmental and non-governmental structures of Azerbaijan is the enhancement of journalistic professionalism. The number of projects directed to the improvement of quality of journalism in the country come to dozens every year: training courses, seminars, conferences are held, manuals are translated and published, trainers are invited from various countries of the world, interns and students are sent to the major foreign media, the best educational institutions. Yet the urgency of the problem is not reduced - the quality of Azerbaijan journalism is not improving.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOS**

As the AR Ministry of Justice informs, there are about 60 journalistic associations in the country. Most of them were created by small groups of media representatives for the solution of narrow professional issues (such as the association of parliamentary journalists, the association of female journalists, etc.). A number of NGOs focuses on the defence of rights of journalists and media. The most prominent here are the Media Rights Institute, Institute of Freedom and Safety of Journalists, Democratic League of Journalists. Apart from the monitoring of violations of journalists rights that all these structures engage in, each of them has specifics of their own. The Institute of Freedom and Safety of Journalists organizes mass actions - rallies, gathering of signatures - to protect journalist, the MRI provides them with legal services, with attorneys, and the Democratic League of Journalists provides financial support to media and their staff, who fell victim to the illegal actions of the authorities or employers.

The largest journalistic associations of the country are the Union of Journalists of Azerbaijan, existing since the Soviet times, and “Yeni Nesil” (“New Generation”) Journalists Union of Azerbaijan, founded in 1995. The cumulative membership of

these two organizations comes to 3,000. They are more targeted towards the solution of fundamental problems of journalism - the formation of professional solidarity, the improvement of legislation, insurance of media diversity and independence, the improvement of journalistic professionalism, conductance of media research, development of recommendations to improve the freedom of expression, implementation of economic reforms, etc.

The several attempts to create a real trade union in media sphere turned out to be futile. Of the three trade unions, created in 1992-2003, only the Independent Trade Union of Media Workers continues its existence. However, it has not been successful, either.

During the first 12 years of independence of the country the journalistic associations of Azerbaijan were successful in leveraging quite a lot of changes in freedom of speech and press (political censorship was abolished; a number of draft laws were developed and submitted to the parliament; impediments for the registration of new publications were removed; a special fund to protect media and journalists was created, a press club was opened, a press council was established, etc.).

During the subsequent 8 years the effectiveness of their work reduced significantly. This is due to the deterioration of a situation in journalistic environment where there is lack of unity, and also due to the reduction of the number of independent media, whose support is essential for journalistic organizations. Under the conditions of economic crisis in journalism NGOs are not only unable to fund major projects with their own resources but even to collect membership fees. The relations with the authorities have become much more complicated, too. The executive and the legislative branches of power that used to be more open for cooperation with journalistic associations today evade entering a dialogue, do not respond to their appeals, protests or proposals.

## **CHAPTER IX. JOURNALISM EDUCATION**

Azerbaijan was the first USSR republic to start training of journalists at higher education institutions. In 1928 in Azerbaijan State University the chair of journalism was created, in 1946 there appeared a department, and in 1969 - a faculty of journalism.

The rapid growth of the number of media in 1990s generated additional need for journalism professionals. Some older and almost all new academic institutions of the country started opening journalism departments. Today journalistic education in Azerbaijan can be received in three state and eight private universities. Annually they issue diplomas to 320-350 young professionals.

However, the media of the country continue to lack professional staff. Holding a diploma of journalistic education does not guarantee employment of young people by editorial

staffs, moreover, it gives them no privilege over representatives of other professions. That is the result of poor education at journalism departments. There are numerous reasons for that: lack of new textbooks, poor curricula and facilities, lack of linkage between education and practice, etc.

Thus, today in Azerbaijan the majority of media staff have no special journalistic education. NGOs try to solve this issue opening training courses and schools of journalism. Thus, the Netherlands School of Journalism, the School of Journalistic Investigations of Open Society Institute, “Media Academy” of youth NGO “Ireli” and others were established.

Every year the number of students at such schools and training courses abroad amount to a number not smaller than that of journalism faculty graduates.

The problem here is of different nature. Most of these professionals having received training do not go back to media, preferring higher salaries in state and commercial structures to the hard and “cheap” work of journalist.

# **BELARUS MEDIA LANDSCAPE**

## **CHAPTER I. BROADCAST MEDIA**

### **Legal Framework**

There is no special law on TV and radio broadcasting in Belarus. In general, the broadcast media are regulated by general legislative norms on media with a more complicated procedure for receiving a right to broadcast, and a more simplified procedure for the state bodies to suspend broadcasting.

Thus, there is a three stage procedure to receive a right to broadcast:

1. Registration of the potential broadcaster as a legal entity;
2. Registration of a TV or radio broadcaster;
3. Obtaining the right to broadcast, which requires passing through a very complicated and non-transparent procedure.

In Belarus two legal mechanisms are used to authorize broadcasting - with and without a licensing competition. The Commission on Television and Radio Broadcasting of Republic of Belarus that operates adjacently to the Ministry of Information makes a decision of granting a right to terrestrial broadcasting to TV organizations that have been established by the decision of the Belarus President or Council of Ministers without competitions. In all other cases the competition basis applies.

The suspension of broadcasting in Belarus is even more simplified, even as compared to print media.

Article 51 of the Law on Media allows for a possibility for the Ministry of Information to file a suit on suspending the production of a medium in the case of even a single violation of a provision of the Law, regulating the TV and radio broadcasting. Moreover, the actual shutdown of a broadcast media can also occur with a court ruling. Thus, in early 2011 the Ministry of Information withdrew the license of "Autoradio FM" on some fictitious grounds. After this incident, there is not a single independent broadcaster in Belarus.

The assignment of frequencies and licenses as well as the activities of a special body, the Commission on Television and Radio Broadcasting of Republic of Belarus, competent to manage this assignment, are regulated by decrees of the Council of Ministers of the Republic of Belarus (No.726 of May 30, 2003, "About the Ratification

of the Provision on Granting the Rights to Terrestrial TV and Radio Broadcasting on the Basis of Competition” and No.1826 of December 30, 2002).

None of the governmental resolutions contains a distinct statement of freedom of expression guarantee being the purpose of the Commission. Ensuring the right of the society to receive and impart information is specified only as one of the purposes of the Commission, others being the implementation of state policy in broadcast domain, effective distribution of frequencies, creation of conditions for social developments, etc.

The Commission, being the only regulating structure for both the broadcasting and for the process of distributing licensing and frequencies is established not by the law, adopted by the parliament but rather by the resolution of the Council of Ministers.

The Council of Ministers together with the Ministry of Information appoints all the members of the Commission, including its chairman. This position, in correspondence with the office held, is taken by the Minister of Information.

Thus, the Council of Ministers and the Ministry of Information fully control the process of distribution of all frequencies and licenses. The resolutions and provisions do not mention the involvement of civil society or representatives of political parties in the Commission, neither do they provide for the participation of parliamentary factions in it.

In accordance with the resolutions and the provision, the Commission is established and regulated solely by the executive - the President and the Government.

### **Broadcast Media Market**

Out of 237 broadcasters registered, the vast majority, 165, are state-owned. The remaining 72 non-state broadcast media are fully controlled by the authorities - both local and national, owing to the system of broadcast licensing.

The state monopoly in broadcasting is broken by foreign stations, including “Deutsche Welle” radio station, the Belarus Service of Radio Free Europe/Radio Liberty. A particular role is played by “European Radio for Belarus” (ERB), “Radio Ratsia” and the “BELSAT” satellite TV channel that broadcast from the territory of Poland. Their programming is targeted to Belarusians and is produced mostly by Belarusians. Yet of these three media only ERB has a legal status in Belarus (a correspondent bureau with 12 accredited reporters). Journalists who cooperate with “Radio Ratsia” and especially “BELSAT” are subjected to permanent pressure from the authorities - they are summoned to the Prosecutor’s Office and the KGB, they receive forewarnings and are put under administrative detentions, etc.

There are about twenty FM stations in Belarus, whose music and news content is fully controlled by the authorities.

Belarus TV and Radio Company is “the central state institution, ensuring the coverage of the state policy”. The company is subordinated and accountable to the President of Belarus, who defines the strategic direction, considers the results of the activities, implements political and financial control. The structure of Belarus TV and Radio Company includes 4 TV, 5 radio channels, 5 regional TV and radio companies. The number of employees covers to over 2,000.

## **CHAPTER II. PRINT MEDIA**

### **Legal Framework**

The basis for the legal regulation of print media is set by the Constitution of the Republic of Belarus:

- Everyone is guaranteed freedom of thoughts and beliefs and their free expression. No monopolization of the mass media by the State, public associations or individual citizens and no censorship shall be permitted (Article 33);
- Citizens of the Republic of Belarus shall be guaranteed the right to receive, store and disseminate complete, reliable and timely information of the activities of state bodies and public associations, on political, economic, cultural and international life, and on the state of the environment (Article 34).

There is no special legal act to regulate solely the activities of print media. Yet this issue is dealt with in the majority of norms prescribed in the Law of the Republic of Belarus “On Mass Communication Media” of July 17, 2008.

The Law on Media stipulated the main principles of media activities, the procedure for their establishment and state registration, defines the procedure and the specifics of the distribution of media production, regulates the basis of relations between media and the state, legal or natural persons, defines the grounds, the types and the procedure for the application of sanctions by the Ministry of Information for violations of the media legislation.

In particular, the Law on Media calls for obligatory state registration of print media published in more than 300 copies. The media registration is in two stages - firstly, the legal person should be registered, and then - a mass medium. The editors of media established must be elected by the founders with a consideration of requirements stipulated by the Ministry (while the Media Law has no such restrictions stipulated).

For the registration of a new medium it is necessary for its chief editor to have experience of managerial work in the domain of at least five years and higher education. It is almost impossible to find people of this kind in the regions.

The legislative pressure is also put on the newspapers published with a print run of less than 300 copies that, according to the Law, do not require registration. However, if the print run of such medium exceeds 10 copies, it should be sent to the state agencies by a list of mandatory dissemination - which has five agencies for a medium with 10 copies. Moreover, the state bodies demand that the editorial offices of such media be also registered as legal persons - that they seek appropriate premises, pay taxes, find editors that are up to the requirements of the Ministry of Information.

The Law "On Press and Other Media Outlets" previously in force allowed for the closure of a medium in court, if it violated Article 5 twice within a year. Journalists used to call this Article a "death article" - it contained 10 reasons for the shutdown of a newspaper that were absolutely contrary to the permitted criteria of state intervention with freedom of the media, as recorded by the European Convention on Protection of Human Rights and Fundamental Freedoms, the International Treaty of Civil and Political Rights and even the Constitution of the Republic of Belarus.

The new Media Law does not have an article of this kind. Yet this does not mean any improvement in the situation, rather the reverse. Today the media can be closed after two - and in some cases even one! - forewarning from the Ministry of Information or the Prosecutor's Office, made on any, even most insignificant occasions.

It is prohibited by the law to use foreign capital to publish media. The only exception is made for the involvement of a foreign investor in the equity of the media, yet this involvement must not exceed 30%.

The accreditation institute is used to restrict the professional activities of journalists of Belarusian media.

Individual provisions that regulate media activities are contained in the Code of the Republic of Belarus on Administrative Offences (thus, liability for the violation of media legislation is stipulated by Article 22.9 of the Code). Some aspects of media operations are regulated by the Civil Code of the Republic of Belarus, the Criminal Code of the Republic of Belarus, etc.

Besides the repressive Law on Media in Belarus, there is very tough criminal and administrative legislation on freedom of expression.

In Criminal Code of the Republic Belarus there are six articles stipulating responsibility for libel and insult, including that of the President and a representative of power. These articles are applied in practice.

In late 2005, ahead of presidential elections an article "Discrediting of Republic of Belarus" was introduced into the Criminal Code. This article remind the worst example of the repressive Soviet lawmaking (in the USSR Criminal Code existed an article titled

“Anti-Soviet Propaganda”). The new article, Article 369-1, defined liability with up to two years’ imprisonment for the provision of intentionally false information to a foreign state, foreign or international organization about the political economic, social, military or international situation of the Republic of Belarus, the legal status of citizens who discredited the Republic of Belarus or its authorities. The Article is obviously directed at the restriction of the flow of critical information from Belarus regarding the state of affairs in the country.

The legislation on administrative violations has become tougher, too. Since March 1, 2007 the new Code on Administrative Offences came into force. It increased the levels of administrative liability significantly, also in regard of freedom of expression.

### **Print Media Market**

The Belarus authorities traditionally pay attention to the quantitative predominance of non-state press. According to the Ministry of Information, out of 1,344 print media registered in Belarus as of January 1, 2011, only 397 are state-owned. (The registration of media, also print media, in Belarus is of a permissive nature, it is implemented by the Ministry of Information.)

Yet the absolute majority of the 947 non-state print media are purely entertaining, advertising, etc.

The registered non-state social-political media are 30, as the Belarusian Association of Journalists reports. “Narodnaya Volya”, “Nasha Niva”, “Belorusy i Rynok”, “Belorusskaya Gazeta”, “Novy Chas”, “Svobodnye Novosti” are the largest independent publications in Belarus.

Many of them were excluded from the state distribution networks ahead of presidential elections, in 2005; all of them face difficulties in attracting advertisers, etc.

Due to the economic, political and legal discrimination of independent media their number reduced by half for the last ten years. In some regions of the country, such as Gomel Region, there are no more independent newspapers registered, and the Ministry of Information refuses to register new ones, referring to some fictitious reasons.

At the same time the state media receive not only the administrative support and preferential treatment, but also budget subsidies. In 2010 only the republican budget allocated 167,185,329.3 Belarusian rubles (around 40 million euro). In 2011 the state-subsidized media already receive 214,728,238.9 BYR or 54 million euro.

The principal and the largest newspaper of the country is still called “Sovetskaya Belorussia” and is the organ of the Belarus President’s Administration.

## CHAPTER III. NEW MEDIA

### Legal Framework

One of the reasons quoted by Belarus authorities in favour of adoption of the Law “On Mass Communication Media” was the need to regulate online media.

The new Law has a number of provisions that use the term “mass communication medium disseminated through Internet global computer network”. However, the Law gives no definition for this term.

The general definition of a mass communication medium allows classing as online media the corporate websites of legal entities with regularly updates on their activities, as well as online versions of the newspapers already registered and home pages of individuals, etc.

The Law does not take into account such characteristics as the nature and purpose of the information placed, the websites’ traffic, the location of the server, etc. Hence it is obvious that the legislature is to define which resources are online media and which are not.

In accordance with Article 11 of the Law “On Mass Communication Media” it is established that the procedure for the state registration of online media is defined by the Council of Ministers of the Republic of Belarus. Article 17 of the Law stipulates that the Council of Ministers defines also the procedure for the dissemination of online media. Thus, the Government is to define the registration and regulation of the operations of online media, yet the definition of such media does not exist in the Law.

On February 1, 2010 the Presidential Decree No.60 “On Measures to Improve the Use of the National Segment of the Internet” was signed. By the end of 2010, 12 other legal acts were adopted by various state bodies to ensure the implementation of the Decree. These normative acts do not refer directly to online media; however, one can easily expect the appearance of a resolution, regulating online media, quite soon.

In accordance with the legal acts adopted:

- All Belarusian Internet-resources that provide service to the Belarusian citizens must pass on to .BY domain zone, to Belarus servers and be registered;
- Visits to Internet cafes and other spots of collective usage of Internet can only occur upon the introduction of an identification document;
- The Internet connection modems of individual users are also identified and recorded;

- Providers (similarly to mobile operators) install SORM<sup>12</sup> systems, accessible by KGB and Interior Ministry;
- “Blacklists” of Internet resources are compiled, the access to which is obligatorily restricted for state organizations (in a country where the state ownership prevails), educational and cultural institutions (libraries, schools, universities, etc.).

Currently a draft law is developed that stipulates administrative and criminal liability for the violation of requirements to the use of Internet.

### **Online Media Market**

The most popular independent online media of Belarus are charter97.org (“Khartya-97”), belaruspartisan.org (“Belorusskiy Partisan”), gazetaby.com (“Salidarnast”), www.euroradio.fm (“European Radio for Belarus”), www.svaboda.org (Radio “Svaboda”), www.naviny.by (“Belarus News”), www.nn.by (online version of “Nasha Niva” website), tut.by news portal.

On the day of presidential elections, December 19, 2010, the majority of independent Internet-resources, covering the course of elections, were blocked. The users had problems accessing Facebook, LiveJournal and Google. The sites could not be accessed through the well-known anonymizers, either, as they were also blocked.

With regard to the coverage of a terrorist attack in the Minsk underground on April 11, 2011, the General Prosecutor’s Office of Belarus made a resolution to restrict access to Belarusian sites “Khartya-97” and “Belorusskiy Partisan”, alleging that they had violated the Law “On Mass Events in Republic of Belarus”. At the same time, the General Prosecutor’s Office restricted access to website prokopovi.ch: as a representative of the General Prosecutor’s Office Pavel Rodionov mentioned, this site “promoted illegal currency exchange”.

Internet providers are required to block these websites from being viewed at state organizations, educational and cultural institutions. Besides, access to these websites is blocked by mobile operator Life:) (“BeST” CJSC) for its subscribers.

## **CHAPTER IV. ACCESS TO INFORMATION**

The constitutional right to “receive, store and disseminate complete, reliable and timely information” (Article 34) is brought to nil by practice.

The situation is similar with regard to implementation of Article 33 of the Constitution, in

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<sup>12</sup> System for Operative Investigative Activities

which it is stipulated that “everyone is guaranteed freedom of thoughts and beliefs and their free expression” and that “monopolization of the mass media by the State, public associations or individual citizens and no censorship shall be permitted”.

The access to information is one of the principal problems that journalists face in Belarus. This problem has two aspects:

- A legislative aspect: some of the provisions of the Law “On State Service in the Republic of Belarus” and other legislative acts restrict the right of journalists to access of information on activities of power bodies;

- A practical one: the state servants refuse to provide information to journalists of non-state media.

On July 15, 2008 amendments were adopted into the Law “On State Service in the Republic of Belarus”. In particular, this Law was amended by Article 22-1, in accordance with which all statements for press to be made by officials of any level must be coordinated with the head of this state body or by an individual, authorized by the head. In October 2008 the General Prosecutor’s Office, the Committee of State Control, the Ministry of Interior Affairs, the Committee of State Security and the Ministry of Justice adopted a joint resolution regarding the provision to media of information regarding “criminal cases of much publicity and crimes, disrupting the reputation of state power”. It follows from this resolution that the right to provide information on the cases of the greatest public interest rests solely by investigative bodies or the court. The provision of such information on incomplete cases without the written consent of the judge is prohibited.

The reporters are normally recommended to address the departments of ideology, established at executive committees and state enterprises to receive necessary comment or information.

Almost 10 years ago in the country an ideological vertical of power was created - special structures adjacent to executive power bodies that assume the function of controlling the information flow. At each of the enterprises the position of deputy director for ideological work is established. Many journalists of non-state media must request information or comment from ideologists when covering political or social problems. This results in a significant political intervention in editorial independence, as well as in repeated cases of self-censorship in non-state media.

Besides, in March 2011 Decree No.68 “On Several Issues in the Domain of State Secrets” was signed. This decree defined a new list of state bodies and organizations, competent to classify their information as state secret. The first list of organizations, adopted in 2008, is now expanded by 8 more items. Now it lists 58 organizations. The list includes the Minsk City Executive Committee and all regional executive committees, the Supreme Attestation Commission, the Religion and Nationalities Officer, the

National Agency of Investment and Privatization, as well as the National State TV and Radio Company - the operations of which must be maximally transparent in principle.

The activities of journalists are to be accredited. Here the permissive and not notification principle applies.

In the questions of access to information the authorities pay most of the attention to official events, particularly those in which the President takes part.

Journalists of state media are accredited with no problems, whereas journalists of non-state media are often refused accreditation.

The system and eligibility criteria of the accreditation are non-transparent, hence they leave ground for arbitrary decisions by the state bodies.

The same problems are encountered by journalists of national and regional media, yet the arbitrary behaviour of the authorities restricts the non-state media in the regions in even greater extent.

The new Law on Media introduced a ban on the activities of correspondents of foreign media with no accreditation. This ban includes also Belarus citizens who cooperate with foreign media.

The Belarusian authorities see the accreditation to be permission for journalistic activities in the country. As a result, the journalists with Belarusian citizenship receive forewarnings from the prosecution bodies and the KGB, as well as court penalties, arrests for up to 15 days.

The authorities use the accreditation mechanism to restrict the professional activities of journalists from Belarusian media, too. When refused an accreditation, the journalist is thus deprived of a right to receive information about the activities of state bodies.

## **CHAPTER V. MEDIA SELF-REGULATION**

The development of media self-regulation institute in Belarus is in many ways conditioned by the absence of corporate unity and the division of Belarusian journalists into “state” and “non-state”.

In Belarus there exist two major organizations of journalists - the Belarusian Union of Journalists (BUJ) that continues the Soviet tradition and the Belarusian Association of Journalists (BAJ), uniting predominantly independent journalists.

The forms of self-regulation of Belarusian journalists are described in detail in the

ethical codes of these professional organizations. BAJ and BUJ adopted their ethical codes that seek to specify the moral standards in journalism.

The function of conflict resolutions should be assumed by ethics commissions, established at these organizations: the Ethics Commission at BAJ, and the Committee for Professional Ethics and Awards at BUJ.

The state, too, made attempts to establish self-regulation bodies.

Article 28 of the new Law on Media stipulated the establishment of the Public Coordination Council for Mass Media. Despite its title, this body is not a public one, as it is created by the Council of Ministers, with its status and composition being approved by the Ministry of Information of the Republic of Belarus. The appropriate resolution of the Council of Ministers was adopted on October 29, 2008.

The main tasks of the Council are:

- coordination of interaction between state administration bodies, public associations and other organizations, engaged in media activities;
- ensuring of correct application of norms of Media Law or other legislation;
- consideration of disputable issues, arising when applying the media legislation in practice.

The judgments of the Council are of recommendation nature. The organization and publicity of the Council activities is ensured by the Ministry of Information.

The Council comprises of 16 members - heads of state media, representatives of the Ministry of Information, the Head of Department of Journalism of the Belarus State University, the Chairman of the Belarusian Union of Journalists.

In January 2009 the Council of Ministers included three representatives of independent media into the Council - the Chairman of the Belarusian Association of Journalists, as well as editors of independent newspapers "Komsomolskaya Pravda in Belarus" and "Narodnaya Volya". The Council was headed by the Chief Editor of the newspaper of the President's Administration "Sovetskaya Belorussia" Pavel Yakubovich.

During the past period only two sessions of the Council were held, both of which occurred in the first half of 2009. The Statutes of the Council called for holding sessions "as the need occurs, but at least once a quarter".

The Public Coordination Council for Mass Media did not become a self-regulation body. It was established by a governmental resolution, it was comprised mostly of

representatives of media domain who were dependent on the authorities. The voice of independent media was in a critical minority.

The only recommendation adopted by the Council - that to return the non-state newspapers into the distribution system - was never implemented.

## **CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS**

The working conditions of journalists in Belarus are directly dependent on their loyalty to the incumbent authorities.

The working conditions, the salaries, as well as the degree of safety of journalists in state media are incomparable to the working conditions of their peers in independent media.

For state publications the authorities created a preferential system that includes direct state donations, privileged conditions for distributions, unofficial protection from court proceedings.

The non-state media have to survive under the conditions of economic discrimination, the constantly deteriorating situation with the distribution. The correspondents of independent media work under the threat of finding themselves in a prison.

In 2002, Editor of "Pagonya" newspaper Nikolay Markevich and journalist of the same newspaper Pavel Mozheyko were sentenced to prison, as well as the Chief Editor of "Rabochi" newspaper Victor Ivashkevich. "Pagonya" newspaper was closed.

The Belarusian Association of Journalists at that time collected over 7,000 signatures to abolish the articles of the Criminal Code that stipulated enhanced liability for the defamation of the President and a representative of the authorities, and addressed the Constitutional Court of the Republic of Belarus, demanding to recognize the provisions incompliant with the Main Law. Yet the Constitutional Court justified the existence of these articles in the Belarusian Criminal Code, alleging similar norms existed in the legislations of European countries.

These articles were again used against Andrzej Poczobut - a citizen of Belarus and journalist of Polish "Gazeta Wyborcza" newspaper, convicted for insult (Article 368 of the Criminal Code) and for libel of the President of Belarus (Article 367 of the Criminal Code) in spring 2011. Andrzej Poczobut was sentenced for three years' conditionally for the critical articles published in 2010-2011 in "Gazeta Wyborcza" newspaper, on "Belorusskiy Partisan" website and his blog - [www.poczobutlivejournal.com](http://www.poczobutlivejournal.com). The criminal proceedings against Poczobut raised much response in both Belarus and beyond it. The issue of his defence was discussed in Warsaw at a meeting of the

US President Barak Obama and the Poland President Bronislaw Komorowski. The chief editors of over 40 Polish media signed the statement demanding the immediate release of the journalist and the lifting of all accusations.

On December 19, 2010 in Belarus presidential elections were held. They were accompanied by mass violations of journalists' rights and media.

Even before the election precincts were closed, several journalists of Belarusian and foreign media were injured. This happened during the attack of law enforcement bodies on the presidential candidate Vladimir Neklyaev and his supporters, so as to take their sound-amplifying equipment. The journalists who were present during the incident were beaten, their photo and video cameras were damaged and taken away, without taking any notice of their press IDs.

Detentions and beatings of journalists continued after the protest action in the evening of December 19. By the information of the Belarusian Association of Journalists, on this and the subsequent days at least 27 journalists were detained, 21 - were beaten by the militia officers. 10 journalists were sentenced to administrative arrest of 10 to 15 days.

The Minsk Office of "European Radio for Belarus" was searched - in the absence of the staff of the radio station. Computers, notebooks, the server, recorders, photo cameras and portable video cameras - 43 items in total - were taken from the premises. (ERB has a correspondent office in Belarus along with accredited correspondents.)

In the morning of December 26 unknowns cut the doors of the Minsk office of "BELSAT" satellite TV channel with a saw. The channel has no official status in Belarus. At that moment there was no one in the office: the journalists vacated the premises a few days before the incident, taking the equipment with them. During the subsequent days searches were made in the houses of 4 journalists, cooperating with "BELSAT", their notebooks and video cameras were confiscated.

On December 28 the office of Belarusian PEN-Center was searched, where the editorial office of "Nasha Niva" newspaper is located. The KGB officers confiscated 12 computers, memory sticks and CDs. At the same time, the apartment of the Chief Editor of "Nasha Niva" Andrei Skurko was searched. On December 31 the apartment of the photo correspondent of "Nasha Niva" Yulia Doroshkevich was searched. Two notebooks, external hard drives, recorders were confiscated - in total, 15 information carriers. On the same day the apartment of the video operator of "Nasha Niva" Tatyana Gavrilchik was searched. On January 3, 2011 Tatyana was summoned for a conversation in KGB. Tatyana refused to talk after her attorney was not allowed to be present. The next day a stranger threatened her on the telephone to beat her.

After the presidential elections the situation in media domain continued to deteriorate

and came close to the critical line.

In April-May 2011, 6 journalists and BAJ members were accused of participation in “mass disorder” or organization of “activities, brutally violating the public order”. Alexander Otroschenkov was sentenced to four years of colony of reinforced regime, Dmitriy Bondarenko - to 2 years of colony of general regime. Pavel Severinets is sentenced to 3 years of restricted freedom in an institution of open type. Journalist of “New Newspaper” Iryna Khalip is sentenced to two years’ imprisonment with a two years deferral - the journalist is at liberty, yet under a commitment not to leave the place of permanent residence. Two years of conditional imprisonment are the sentences of the Editor of “Tovarisch” newspaper, BAJ member Sergey Voznyak and the journalist of “Moskovskiye Novosti” Alexander Feduta, each. Another defendant on the case of December 19, journalist of [www.charter97.org](http://www.charter97.org) Natalya Radina secretly left the country in late March.

Appeals to release all prisoners are made by the European and international structures, representatives of European states. A similar request and a demand to stop the confrontation were made to the Head of the State also by the Belarusian Association of Journalists.

## **CHAPTER VII. INTERNATIONAL COOPERATION**

International cooperation with the democratic journalistic community is implemented in the area of promoting standards of professional activities, implementation of joint programmes regarding safety of journalists, defence of freedom of expression and media as well as the expert assessment and development of recommendations to harmonize the Belarus legislation to international norms and standards.

It is important to note here the displays of international solidarity with Belarusian journalists, the support of international community in the case of brutal violations of the rights of media representatives, intervention of state bodies into editorial activities.

It is the international solidarity and cooperation that allows the independent journalists of Belarus to be a part of international journalistic community, to take an active part in the international action “We Shall Stand for Journalism”, to join their voice to the protest actions in defending the rights of journalists in other countries.

During the repressions against journalists after the presidential elections of December 19, 2010, a whole number of international journalistic associations made protesting appeals to the head and the Government of Belarus. Their indignation at the violence against journalists was expressed by the Belarusian Association of Journalists, International Federation of Journalists, Journalists Union of Russia, Journalists Union of Lithuania, Exiled Journalists’ Network, International Press Institute and its affiliate

South Eastern Europe Media Organization (SEEMO), “Reporters without Borders”, OSCE Representative for Freedom of the Media Dunja Mijatovic and others.

In September 2009 an international mission was sent to study the media situation in Belarus. The monitoring group included representatives of international organizations, specialized in the issues of free press and media development. The mission included European Federation of Journalists/International Federation of Journalists, Open Society Institute, Index on Censorship, International Media Support, Danish Union of Journalists, UNESCO. The Mission was organized in cooperation with the Belarusian Association of Journalists, as well as the representation of the European Commission in Minsk.

Besides the direct participants of the delegation, a number of other international media organizations was involved in the mission and signed the final documents: Civil Rights Defenders, PressNow, World Association of Newspapers and News Publishers (WAN-IFRA), “Article 19”, International Press Institute, Committee to Protect Journalists, “Reporters without Borders”.

One of the priorities of international cooperation is the participation in joint educational programmes.

In May 2011 a new programme on journalistic ethics was launched. It was organized by the FOJO Swedish Media Institute. For the first time two Belarusian journalistic organizations take part in the programme - Belarusian Association of Journalists and Belarusian Union of Journalists. The purpose of the programme is to develop common ethical norms and to modify the codes of journalistic ethics of both organizations, their harmonization with European standards. Within the programme it is planned to train a group of press ombudsmen on the basis of ethics commissions of both NGOs, with the assistance of FOJO experts and the Swedish Media Ombudsman.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOS**

The differing, and sometimes even radically contrasting interpretation of journalistic profession has resulted in the existence of several journalistic associations in Belarus.

Under the circumstances when some journalists are put to prison and persecuted for the criticism of authorities, others are actively engaged in pro-governmental propaganda, supporting the authorities and continuing the Soviet propaganda practice.

The principal newspaper of Belarus is still called “Sovetskaya Belorussia”, and journalists of state publications are more like state officials, who have nothing in common with journalistic solidarity and corporate unity.

The European standards, adopted by some Belarus journalists, do not fit well into the Soviet rules that are not being given up by a significant proportion of state media.

**Belarusian Association of Journalists (BAJ).** A non-governmental organization, founded in autumn 1995 and uniting over 1,100 members, representing print, broadcast media, publishing companies and online resources. The BAJ is a voluntary, non-state, non-partisan association of citizens. Besides the central office in Minsk, BAJ has five regional branches.

Since 1997 BAJ is an associate member of the International Federation of Journalists. In 2003 the World Association of Newspapers awarded the Golden Pen of Freedom Prize to BAJ. In December 2004 the European Parliament conferred on BAJ the Sakharov Prize for Freedom of Thought. In June 2011 at Wroclaw Global Forum BAJ received a Freedom Award of Atlantic Council.

Since 1998 BAJ has been engaged in permanent monitoring of violation of free expression and media rights. A network of correspondents is established across the country, which collects and processes the data on situation in the regions of the country.

Since 2000 BAJ publishes a professional journal, “Abazhur” that is sent to state and non-state media.

BAJ pays much attention to programmes of professional training of journalists. Here the partners of the organization are the FOJO Swedish Media Institute, the European Journalism Centre (EJC), Journalists Union of Lithuania, Journalists Union of Denmark, Journalists Union of Norway, the Friedrich Ebert Foundation and others.

**Belarusian Union of Journalists (BUJ)** unites around 2,000 journalists. It was established during the Soviet rule and retains the structure and the traditions since that time.

According to the statutes, the mission of the organization is as follows:

- comprehensive assistance to the realization of principles of free expression and press;
- strengthening of the legislative framework of all sides of the communication process;
- active participation in the creation of conditions, necessary for media functioning, strengthening and development of their material and financial base;
- ensuring of high creative and professional standards.

During the past 17 years the BUJ has not adopted any statement, condemning the repressions against the colleagues from independent media.

BUJ publishes the “Journalist” journal, headed by the First Deputy Minister of Information of the Republic of Belarus.

**“United Mass Media” Association of Regional Press.** The Association was created by publishers of regional newspapers in 2009. The Association includes 12 legal entities, publishing 19 newspapers. Of these, two newspapers, “Bobruyskiy Kuryer” (Bobruysk) and “Gazeta Dlya Vas” (Ivatsevichy) were shut down for economical reasons. The newspapers within the Association, as of 2011, are sold in 12 cities of Belarus with a total print run of 100,000 copies. In 2010 the Association was presented at an international specialized exposition “Media in Belarus”. In 2011 the state organizers of the exposition rejected the participation of the Association in the exhibition, explaining their refusal by “organizational and technical reasons”.

## CHAPTER IX. JOURNALISM EDUCATION

“In Belarus, media of serious nature, similarly to the whole ideology, the whole journalistic education, are not privatized. Everything must be under strict control in the interest of the state” (from the speech of the President of the Republic of Belarus Alexander Lukashenko, delivered to the students of journalism of the Belarus State University on February 12, 2008).

The academic system of journalist training in Belarus has not changed much since the Soviet time. The journalists are still seen as propaganda tools for the authorities, and the journalistic education falls within the ideological line.

The Belarusian Association of Journalists seeks to eliminate the Soviet stereotypes and expand the limits of journalistic education. To this effect, master classes, training seminars, internships are organized for journalists of the country.

**Department of Journalism of Belarus State University (BSU).** The main school of journalism in Belarus was created as far back as on November 1, 1944. In 2008 it was transformed into Journalism Institute of BSU. Today the Institute accommodates over 1,500 students. Nine chairs train the future journalists: theory and methodology of journalism; periodical press; TV and radio broadcasting; foreign journalism and literature; technologies of communication; style studies and literary editing; history of journalism and literature; literary and arts criticism; sociology of journalism. Since September 1, 2008 the BSU Institute of Journalism has a department of training and retraining.

The assignment of journalism graduates every year to workplaces is made in accordance with the plans of the Ministries of Information and Education as well as the requirements of editorial teams. The programmes of teaching web-journalism are implemented by both state institutions (BSU Institute of Journalism), and by

independent journalistic associations (BAJ). In early 2011 the Institute launched the Belarus media portal, developed under the programme of creation of unified access to state resources and providing the information and articles of state media: an electronic catalogue, digest of publications of national and regional state-owned newspapers, blogs of journalists.

**European Humanities University (EHU, Vilnius, Lithuania).** A Belarusian University in exile, this institution trains bachelors in media and communications. The programme is directed to develop practical skills of producing mass media products of modern level - from newspaper reports to documentaries and Internet-resources, with the use of the newest information and multimedia technologies.

The University implements a whole number of international projects: it cooperates with BBC and “European Radio for Belarus” in both TV and radio journalism. The university facilities of radio and TV studios are used for both training and creative projects of students. The knowledge of at least two foreign languages allows the graduates to be competitive on the global labour market in mass communications and cultural management.

**Swedish Media Institute (FOJO, Kalmar, Sweden).** It is hard to overestimate the role of FOJO in training for Belarus journalists. Dozens of training seminars have been organized by FOJO experts in cooperation with BAJ over the past 13 years. Only during 2007-2010 over 160 journalists were trained with the help of FOJO. The programme included seminars on a number of professional aspects of journalism and editorial work (political reporting, online journalism, photo journalism, editorial management, etc.), international “round tables” with the involvement of journalists from Moldova and Lithuania on various topical issues (journalistic investigation, coverage of conflicts, media legislation), open house lectures of Swedish experts for BAJ members and students of BSU Journalism Institute (media convergence, journalistic ethics), field consultations of experts in editorial offices of Belarusian media. In October 2010 the first session of the Belarusian Club of FOJO Alumni in Minsk was held.

# GEORGIA MEDIA LANDSCAPE

## CHAPTER I. BROADCAST MEDIA

### Legal Framework

The Law of Georgia “On Freedom of Speech and Expression” was adopted in 2004. Along with guarantees for free speech enshrined in the Constitution of Georgia, this Law provides for strongest protection of the media freedom. It provides clear principles on when freedom of expression may be restricted and safeguards against the abuse of those restrictions. The Law “On Freedom of Speech and Expression” sets out a number of rights and privileges, including the right to protect the confidentiality of sources; ensures the protection of whistleblowers; provides access to a court for persons whose right to freedom of expression has been violated. The Law distinguishes between defamation of private person and of a public figure, acknowledging that public figures are subject to much higher criticism than ordinary persons because of their elevated position in society. Moreover, in any court dispute on allegedly defamatory matter published by a journalist, the burden of proof lies with the claimant. The key achievement of this Law, however, is the decriminalization of defamation. The very day the Law was enforced, a relevant article in the Criminal Code was abolished. This means that criminal courts cannot prosecute any person for defamation.

The Law of Georgia “On Broadcasting”, also adopted in 2004, regulates activities in the broadcast sector. It provides for independence and immunity of Georgian National Communications Commission (GNCC), the regulatory authority in charge of issuing broadcast licenses. The Law also guarantees immunity and editorial independence of the Georgian Public Broadcaster.

### Broadcast Media Market

The implementation of these liberal media laws proved to be a problem, however. Pursuing the goal of implementing quick and radical - consequently, painful reforms necessary for the advancement of the country, the new government sought editorial control over news content at all major television broadcasters. It also made efforts to stifle opposition broadcast media. Political talk-shows gradually disappeared from TV screens. Two TV stations closed down. National TV channels were taken over by businesses close to the government.

With the increasing dissatisfaction among the population (partly because of government’s mistakes and partly because of radical reforms that largely affected ordinary people) and the attempts of political opposition to capitalize on popular dissent, the government strengthened its grip on TV media. The situation hit rock bottom in November 2007, when amid broader political crisis, the government closed

down TV in a violent move, claiming imminent threat to the security of the country as the ground. The “Imedi” TV was strongly critical of the government while its actual owner was overtly supportive of the opposition. The crackdown on this station (it went off the air for nearly a month) cost the country the lowest score - 60 (compared to 54 in 2003, and, say, 57 in 2007) among “partly free” countries in the 2008 Press Freedom Index - a major setback for a country that claimed to be building democracy. Eventually, “Imedi” TV was taken over by a pro-government business.

A further decline in TV media environment was seen after the Georgia-Russia war in August 2008. Media watchdogs and international organizations voiced sharp criticism of the media situation in the country. In July 2009, President of Georgia acknowledged the need for moving towards a more open and unbiased media environment. International donors also put an issue of enhancing assistance to Georgia’s media environment on their agendas.

The situation created in media in 2009 is well described in a comprehensive study of Georgian media conducted by the Caucasus Research Resource Centers (CRRC) in September 2009. It stated that “Georgia has a vibrant media scene and liberal media legislation. There is a wide variety of viewpoints available in print and on radio, as well as on television in the capital Tbilisi. However, rather than acting as impartial providers of information, media outlets are often viewed as biased, serving the interests of one or another political group”. According to the CRRC report, “two of the most significant features of the Georgian media are the deep polarization of TV broadcasters and the interference of media owners in editorial decisions”.

According to data provided by the Georgian National Communications Commission in July 2011, there are 101 licenses issued to 74 companies of which 80 licenses are for general broadcasting and 21 for specialized broadcasting. Out of 80 general broadcasting licenses, 46 belong to television and 34 to radio stations. Out of 21 specialized broadcasting licenses, 11 belong to television and 10 to radio. Cable broadcasting does not require licensing.

Television is the most preferred medium in Georgia and the main source of news for nearly 88% of Georgians, according to the 2009 CRRC study. This indicator remained the same in 2011, as the CRRC follow-up survey conducted in May 2011 revealed.

Four stations, Georgian Public Broadcaster First Channel, “Imedi”, “Rustavi 2” and “Ajara”, have nationwide reach. All but “Ajara” TV are based in Tbilisi. “Rustavi 2” has the largest audience and is the most trusted TV channel. The level of trust to this channel rose from 37% in September 2009 to 43% in April 2011, according to corresponding CRRC surveys. The second trusted broadcaster is “Imedi” TV followed by the Georgian Public Broadcaster.

TV channels are perceived to be divided into “pro-government” and “pro-opposition”

camps. Both camps strictly stick to their agenda as it can be easily seen in cherry-picking information, manner of editing and presenting news, selection of participants in political talk shows. Broadcast information is often misleading, unbalanced and partisan. As the 2011 Media Sustainability Index (MSI) report notes: “Political bias often comes not in the form of the Western-style, value-based leanings, but rather outright propaganda and counter-propaganda.”

“Rustavi 2” and “Imedi” are seen as supportive to the government, promoting achievements and hardly airing a critical report of the government. The same holds true for “Real” TV, a relatively new channel (launched in October 2009), covering Tbilisi and some area beyond. However, the latter outweighs the former two TV stations in the degree of its propaganda.

“Kavkasia” and “Maestro” are from “pro-opposition” camp and lambast the government. Both TV channels are Tbilisi-based and serve Tbilisi alone. “Maestro” which started as a specialized broadcaster (music & entertainment) was modified, in 2009, into general broadcaster, capturing a share of “Kavkasia” (opposition-inclined) viewers. Moreover, the trust towards “Kavkasia” plummeted from 20% in September 2009 to 13% in April 2011, whereas “Maestro” maintained the level of trust at 9% in the same period, according to corresponding CRRC surveys.

One recent positive development is the frequent appearance of ruling party representatives (and people affiliated to it) on political talk show programmes of opposition TV stations. Citing unprofessional conduct of talk shows by hosts, low quality and culture of political debate on the part of opponents, the ruling party boycotted opposition TV talk shows for years.

Since 2007, the Georgian Public Broadcaster (GPB) has become a target of frequent attacks from political opposition and a tool for exerting pressure on the authorities amid political struggle. GPB has been much criticized by the opposition for toeing the government line.

In 2008, the GPB head resigned and members of GPB board of trustees were replaced.

In 2009, political opposition intensified its fight for the “depolitization” of the Georgian Public Broadcaster, at the same time trying to secure more control over it. Pickets and “corridors of shame” were staged in front of the channel. There were some instances of intimidating and even manhandling journalists on the part of opposition activists.

In September 2009, the Law “On Broadcasting” was amended. The number of members of the GPB board of trustees increased from nine to fifteen, with the intention that seven of them will be nominees of the opposition and one - of the civil society. In August, 2009 a group of civil society and media representatives formed the Media Club, which was able to secure support from opposition and push through three nominees.

In December 2009, the Parliament approved legislation that re-established the initial scheme of GPB funding, which obliged the Government to allocate at least 0.15% of Georgia's GDP to the Georgian Public Broadcaster's annual budget. This scheme ensured higher independence of GPB from government. In 2008, however, this scheme was changed into direct funding from the national budget, thus providing the government with some levers over GPB. With the initial funding scheme restored (at a lower rate of at least 0.12%, though) the broadcaster has a relatively consistent budget and is less dependent on government's goodwill.

During the local elections in 2010, election observers noted a more balanced coverage of the elections by the public broadcaster.

In 2010, GPB launched a special parliamentary state channel to provide live coverage of Parliament sessions and unedited time for the views of different political forces. The editorial policy was developed in consultation with the opposition parties, coordinated by U.S. National Democratic Institute. This channel covers about 30% of the country.

In January 2010, GPB started its third channel "Perviy Informatsionniy Kavkazskiy" or PIK. It is a Russian-language news and information channel with its broadcasts reaching Russia and the Caucasus, parts of Eastern Europe, Turkey and Iran.

The most recent CRRC survey of Georgian media (conducted in May 2011) shows increase in trust towards GPB's news broadcast - from 17% in 2009 to 25% in 2011.

Investigative content is produced only by a few smaller television studios, mainly supported by donor funding, which are then offered to TV channels. Only "pro-opposition" channels broadcast such content. None of the national TV companies air investigative reports.

Some other TV studios produce independent, mainly education and entertainment programmes which are aired by national broadcasters.

There are more than 30 regional TV stations. Some twenty regional TV channels are members of Georgian Association of Regional Broadcasters (GARB). In January 2011, six regional broadcasters established TV Network of Regional Digital Broadcasters which aims to support the development of regional TV channels. Regional stations have less local viewers and relatively limited programming than national channels.

Overall, TV media provide multiple political viewpoints and news items, but media consumers have to watch various channels to get the full picture and form their independent opinions.

Although television remains the major source of information, radios do play a significant

role with 33% of Georgians listening to the radio each day, according to the CRRG 2009 media survey.

The radio stations can be divided into talk radio and entertainment radio.

Tbilisi-based talk radios that regularly broadcast news include “Palitra”, “Fortuna”, “Green Wave”, “Utsnobi”, “Imedi”, “Pirveli Radio”. Some of the radios broadcast various talk shows daily. The most distinguished in terms of political and analytical talk shows is Radio “Palitra”. Radio “Green Wave” has the longest history of cooperation with international organizations.

GPB operates two radio channels: “Sakartvelos Radio” - “Pirveli Arkhi” and “Radio Ori” - “Kartuli Radio”. “Sakartvelos Radio” broadcasts nationwide with news and various programmes, including talk shows on political, social, economic issues. It lags behind in the ratings, as does GPB’s First Channel television.

Leading Tbilisi-based stations include: “Fortuna”, “Fortuna Plus”, “Imedi”, “Utsnobi”, “Avto Radio”, “Ar Daidardo” and “Green Wave”. These stations have niche audiences and offer a mix of news, talk shows, music and entertainment.

Radio “Abkhazetis Khma” broadcasts in Georgian and Russian, also to reach the audience in Abkhazia. In November 2009, the Radio Free Europe/Radio Liberty Georgian Service launched the “Ekho Kavkaza” (Echo of the Caucasus) programme, a one-hour Russian-language programme aimed at delivering information to Georgia’s occupied regions of Abkhazia and South Ossetia.

The best four regional radio stations “Dzveli Kalaki”, “Hereti”, “Harmonia” and “Atinati” are united as Georgian Radio Network (GRN). GRN has its own network of reporters in Georgia’s every region. These four radio stations have launched a joint project - a weekly news and analytical programme “Mteli Kvira” (Whole Week). Tbilisi audience can listen to it on Radio “Palitra” airwaves.

There is a wide variety of specialized radios: classic, jazz, rock, folk music stations as well as stations with sports, traffic or business news.

Most radio stations are available online. Many have websites with live streaming and programme archive.

In April 2010, the Government pardoned a GEL 36 million (\$20.6 mln) debt owed in taxes by all television businesses, including national TV companies. In late 2009, media associations and advocacy groups called on tax authorities to write off the debt of GEL 1.8 million (\$1.1 mln) owed by local television in overdue taxes. This happened after the Batumi-based private television station, “Channel 25”, was ordered by the court to cover its tax liabilities (GEL 277,500), or else its assets risked to be auctioned. This

rising pressure was responded by the authorities with a tax amnesty for all stations.

Neither the breakdown of unpaid taxes per TV station nor the number of broadcasters that owed the state was disclosed. Good taxpayer broadcasters perceived this tax amnesty as unfair and uncompetitive market intervention and a blow to their companies.

The current year saw a major step towards better media environment. The amendment to the Law “On Broadcasting”, passed by the Parliament in April 2011, provides for full transparency of broadcast ownership. The lack of transparency of media ownership had been a persistent problem and source of speculation in Georgia’s media environment for years.

In 2010, a group of media and legal experts pushed forward draft of legislative amendments, addressing the need for fully transparent media ownership and finances. In October 2010, the Parliament, on its part, announced its intention to amend the Law “On Broadcasting” for ensuring transparency of media ownership and finances.

The new regulation requires disclosure of the owners of broadcasting companies and sources of finance, and bans offshore ownership of TV stations. January 1, 2012 is the deadline set for offshore-owned broadcasters to reorganize their ownership structure.

According to the GNCC annual report for the year 2009, the income of general TV broadcasting sector stood at GEL 73,759,309, while of specialized TV broadcasting at GEL 3,329,945. The incomes for general and specialized radio broadcasting comprise GEL 6,656,852 and GEL 213,882, respectively. No further breakdown is provided. Figures for the year 2010 are yet to be released. It is difficult, therefore, to quote accurate amount of advertising revenues.

The advertising market is not big enough to sustain many stations. The market is concentrated in Tbilisi. General Media LLC, which entered the market several months ago, sells advertising time on “Rustavi 2”, “Imedi”, First Channel, “Mze”, “Real TV”, “Georgia” and “First Stereo” TV channels.

According to some reports, advertising income in the TV sector is about 35 mln GEL.

## **CHAPTER II. PRINT MEDIA**

### **Legal Framework**

Except for the Law “On Freedom of Speech and Expression” (adopted in 2004) that regulates the general issues of freedom of expression<sup>13</sup>, there is no special law regulating print media in Georgia.

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<sup>13</sup> See Chapter I. Broadcast Media, Legal Framework

## Print Media Market

Print Media enjoys almost absolute freedom in Georgia and this sector is renowned for the diversity of political views. Newspapers are not an important source of information for most Georgians like television. It is the main source of information for quite a small segment of population.

Of 502 newspapers in Georgia, 376 are registered with the Department of Statistics in Tbilisi and 126 are registered in the regions; most are published irregularly. Nearly 30 circulating in Tbilisi and about 60 regional newspapers are more or less active.

Tbilisi-based dailies “Resonance” and “24 Hours” lead the list of serious press. The weekly “Kviris Palitra” has the biggest sales. Other popular central newspapers include “Alia”, “Akhali Taoba”, “Versia”, “Asaval-Dasavali” and “Kviris Chronika”. Most of newspapers are cheap tabloids chasing after sensationalism to boost sales. They lack professional standards. Stories are often based on unchecked information, which often turn out to be flagrant lies; references to “sources close to” or “anonymous sources,” etc., are frequent; deep analysis is rare.

Regional newspapers come out once a week. The leaders are “Batumelebi”, “Akhali Gazeti”, “P.S.”, “Guria News”, “Kakhetis Khma”, “Spektri” and “Samkhretis Karibche”. Some regional newspapers have a higher circulation and readership than national newspapers. Examples include the “Batumelebi” in the Ajara region.

Newspapers are published in minority languages: Russian, Armenian and Azerbaijani. There are few English language newspapers as well.

Precise data on newspaper circulation are not available. Print publications either conceal or claim inflated circulation numbers to attract advertising. Distributors do not disclose sales data either. The subscription of print media is very insignificant. Annual advertising income to print media is unknown.

Some newspapers have tried to boost their sales by offering cheaper books (fiction and non-fiction) together with newspapers. According to some claims, this initiative pushed up newspaper sales.

Magazine sector provides a mix of low-quality yellow journalism, specialized glossy and serious editions. “Sarke”, “Tbiliselebi”, “Gza” and “Raitingi”, practice yellow journalism.

Printed on low-quality newsprint and consequently, low-priced, they have the highest circulation in the print press. “Tskheli Shokoladi” is the most popular high-quality, serious glossy magazine. In May 2009, “Tskheli Shokoladi” publisher launched a new information and analytical magazine “Liberali” with the support of the Open Society Georgia Foundation. “Liberali” gained popularity soon and maintains its dedicated

readership. Having started as biweekly edition, “Liberali” became a weekly in March 2010.

In March 2010, a new weekly information and analytical magazine “Tabula” was launched. “Tabula” runs a monthly international English-language edition, as well, which is distributed for free in selected locations. In 2011, “Tabula” publisher released a new quarterly glossy, “Tabula Art”.

“Liberali” and “Tabula” are the two weekly news and information magazines that “outshine anything that goes to print in Georgia”<sup>14</sup>.

Print media continue to enjoy an exemption from the value-added tax.

## **CHAPTER III. NEW MEDIA**

### **Legal Framework**

Except for the Law “On Freedom of Speech and Expression” (adopted in 2004) that regulates the general issues of freedom of expression<sup>15</sup>, there is no special law regulating new media in Georgia.

### **Online Media Market**

According to the International Telecommunication Union, Georgia had 1.3 million Internet users in 2009, which constitutes a 30.5% penetration rate. Government censorship, restriction on Internet access or content is not a major hindrance to Internet freedom. However, during the Russia-Georgia war in August 2008, the government restricted access to websites with Russian domains. A recent attempt (mid-June 2011) to restrict access to certain torrent sites was in some sense related to the Russia-Georgia war. GNCC restricted access to ten websites to prevent downloading of pirated copies of the film “5 Days of August”. However, the restriction was lifted on the next day.

Although some step up in the development of online news media has been observed recently, it still lags far behind western countries. Inadequate revenues in the online news business and a lack of technological knowledge are among the causes hampering the expansion of traditional media outlets to the Internet. Yet another impediment is the uneven access to the Internet in the country. The Internet usage is concentrated in the capital city of Tbilisi. Moreover, many journalists are not proficient in Internet tools.

A growing number of print and broadcast media are launching websites. Major

<sup>14</sup> The 2011 Media Sustainability Index

<sup>15</sup> See Chapter I. Broadcast Media, Legal Framework

newspapers and news agencies share content through applications like Facebook, Twitter and the video-sharing site YouTube. Leading broadcasters also run their websites, although they do offer nothing else but materials of their programme schedules.

Internet broadcasters include iTV.ge and Internetradio.ge. Video portals myvideo.ge and tvali.ge allow watching not only Georgian but also foreign TV channels both live and archived.

Gogroupmedia.net, a website by GoGroup Media, operates the Eye Witness Studio and posts videos by professional journalists and eyewitness reporters. Stories focus on social issues and enhanced coverage from the regions.

There are a few reliable news sites, including Civil.ge offering news and analytical stories and operated by the United Nations Association of Georgia. Media.ge is a good source of news and analysis about the Georgian media. Presa.ge and Internet.ge provide news and stories published by the traditional press. Internet.ge, launched in 2008, is also a good source of information.

The CRRC media survey of September 2009 showed that 19% of Georgians have access to the Internet. The number of citizens using the Internet in their free time more than doubled - from 9% to 20%, within 18 months, as the follow-up media survey, conducted by CRRC in May 2011, has shown. Besides, the indicator for the use of Internet as the primary source of information increased from 3% to 5% over the same period.

According to the majority of respondents of the 2011 CRRC survey, the Internet is mostly used for social networking. Social-networking sites, particularly Facebook, have gained in popularity in recent years. Facebook is now the most popular site in Georgia used as a platform for discussion and information exchange. Media outlets set up Facebook pages to increase their readership or viewership; users actively share and comment on articles and videos. Many bloggers and journalists use it to share or promote their content. Georgia's Facebook population now stands at 630,840<sup>16</sup>.

One of most developed Internet media in Georgia are blogs. According to 2011 Freedom on the Net report, there are about 100 bloggers writing now actively in the Georgian language. Still, the blogosphere is not strong enough to play a significant role in the Georgian media. Moreover, basically blogs are not devoted to news. The number of blogs registered on Open Society Georgia Foundation's "Blogroll" reached 800, but not many are devoted to news.

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<sup>16</sup> socialbakers.com, retrieved July 2, 2011

## **CHAPTER IV. ACCESS TO INFORMATION**

Freedom of information (FOI) regime is enshrined in the following Georgian Laws: the General Administrative Code of Georgia (Chapter 3 of which represents the main source of freedom of information legislation in Georgia); the Administrative Procedures Code of Georgia; the Law of Georgia “On Independent National Regulatory Authorities”; the Law of Georgia “On Structure, Authority and Rules of Operation of the Government of Georgia”; and the Law of Georgia “On State Registry of the Ministry of Justice of Georgia”. The General Administrative Code of Georgia guarantees access to public information that is not a state secret. The Code specifies that requested information should be made available immediately, if possible, or within a maximum of 10 days.

Poor access to official information is a common complaint on the part of media representatives. It is seen as a serious obstacle to quality journalism. The situation in this respect is worse in regions. On May 3, 2010, sixteen regional newspapers carried the slogan “Provide Us with Public Information” on their front pages, thus voicing their protest against poor access to public information.

Reportedly, journalists do not get the information requested or get only part of it; public organizations often do not provide a name of the person responsible for public information. Georgian journalists also allege that public organizations often classify some requested information as personal or state secret.

To assess the transparency of various public institutions and citizens’ access to public information, Transparency International (TI) Georgia, in February-May 2010, undertook a series of field tests. Fifty-two FOI requests were sent to 10 public agencies. In 78.8% of cases, public agencies provided satisfactory responses, including correctly transferring the request to another institution. Unsatisfactory outcomes (21.2%) included no response at all, oral or written refusals without an acceptable reason, incorrect referrals and incomplete answers. In 67.3% of all cases, the requested information was received in full. The Central Election Commission and Parliament were among most responsive institutions whereas law enforcement institutions proved to be less responsive. TI Georgia has also found that public institutions do not discriminate against the news media.

Two amendments made to the General Administrative Code in 2008 are seen as limiting access to information: the increase in the fee for filing a FOI complaint with courts from GEL 30 to GEL 100; and the requirement for a public information seeker to file a complaint with a superior official or body within the agency that failed to provide requested information, before going to court.

Yet another problem is the ignorance of journalists of their rights or the ways of challenging a refusal or delay in the release of public information.

A group of independent experts on the media has drafted a range of amendments to the existing provisions of FOI legislation. In April 2011, Google and Baker & McKenzie LLP prepared a Review of Proposed Amendments to Freedom of Information Laws in Georgia, on behalf of the International Research & Exchanges Board (IREX).

## CHAPTER V. MEDIA SELF-REGULATION

The Law of Georgia “On Broadcasting” (adopted in December 2004) required that the Georgian National Communications Commission (GNCC) draw up Code of Conduct for Broadcasters within a year of the adoption of the Law. However, it was not until March 12, 2009 that GNCC passed the Code. The work on the document started shortly after the enactment of the Law but due to controversy in opinions and fierce opposition from media representatives as well as political opposition it took almost four years to develop a final version. Opponents of the Code asserted it would become a tool to tame media outlets.

The final draft code was drawn up with the involvement of Council of Europe experts and participation of TV companies, civil society representatives, Public Defender’s Office of Georgia. Controversial opinions and hot debates were also common to the process.

As defined in the Law “On Broadcasting”, Code of Conduct for Broadcasters is a normative act which determines “the rules of conduct for license holders”. It consists of principles, rules and guidelines. According to the Code of Conduct, “The principles of broadcasting are binding and define professional standards; The rules define requirements of the Code to be observed by broadcasters in order to achieve the objectives set forth in this Code; The guidelines are methodical recommendations (ways and means) that broadcasters can use to observe the principles and rules set forth in this Code”.

The Code requires from broadcasters the setting up of effective self-regulating mechanism and appeal body, involving independent, impartial and qualified people; a concerned party can file a complaint with a broadcaster to correct or retract any inaccurate information within ten days of an initial report; a broadcaster’s decision on a complaint can be challenged at the appeal body within seven days; the appeal body shall consider a complaint of any legal or natural person and arrive at a decision within one month. The Code of Conduct set a deadline of September 12, 2009, for national broadcasters and a deadline of March 12, 2010, for other broadcasters to establish effective self-regulation mechanisms. Moreover, every broadcaster is required to submit a detailed report to GNCC annually, among others, on complaints received by a broadcaster and decisions on them; terms of handling complaints; violations of the Code by broadcaster employees and preventive measures to eliminate violations.

According to information provided by GNCC in June 2011, a self-regulation mechanism has been set up in every broadcaster. Broadcasters are now in the process of submitting detailed reports for the year of 2010.

The ethical guidelines for broadcasters have done little to improve matters so far. The explicit example is a fake news report, or documentary, aired by Georgian “Imedi” TV on March 13, 2010, about Russia’s invasion into Georgia. The most common violations include hate speech, bias, and opinionated reporting.

The Georgian Public Broadcaster was the first (and still the only) broadcaster in Georgia that introduced its own in-house code of conduct in 2006.

In 2005, Journalists Code of Ethics was drawn up and a self-regulatory body, Media Council, established by nine national, eleven regional media, three nongovernmental organizations and individual journalists. Any person may file a complaint who believed standards of journalistic ethics had been violated against him/her. During its short life, the Media Council considered only six complaints. It also failed to establish cross-media ethical standards. Media Council ceased functioning because of lack of funds.

The initiative of setting up Media Council was met with opposition on the part of some media outlets. Four leading newspapers refused to join the Council denouncing it as an attempt to censor media, and established an alternative Press Council in 2005. The Press Council never started functioning.

In December 2009, the Georgian Journalists Charter of Ethics was adopted. Initiator of the project was the Civic Development Institute. The draft charter was drawn up by mainly regional Georgian journalists with the involvement of foreign experts and financial assistance of the Council of Europe. Some 180 journalists have become signatories of the Charter. The Council of Georgian Journalists Charter of Ethics, a new independent self-regulatory mechanism was set up on the basis of the Charter. It monitors the implementation of the Charter, reviews and rules on complaints about violations of ethical norms.

The Council has already reviewed and ruled on eleven cases. Among the most high-profile cases was the case of a fake news report, or documentary, about Russia’s invasion into Georgia aired by Georgian TV station “Imedi” on March 13, 2010. The broadcast of the report sparked panic in Georgia, as many did not see the disclaimer at the beginning of the broadcast. The report was introduced as a simulation of possible events, but the disclaimer was lost on many Georgians and they assumed that they were watching live events. The anchor of this programme was a signatory of the Charter. The Council ruled on March 25, 2010 that she had violated journalism ethics.

Another ruling established that a talk-show host at “Kavkasia” TV station failed to adequately respond to homophobic remarks of one of his talk show guests. This ruling

was hailed by the Council of Europe as “a welcome signal that hate speech is not acceptable”.

A number of media NGOs are focused on promoting journalistic ethics and self-regulation in Georgia. They implement smaller-scale projects on monitoring observance of ethical standards by journalists. Such NGOs include the Civic Development Institute and Media Development Fund. Results of such projects are published and distributed among media outlets and students specializing in journalism. Donors funding such projects include Open Society Georgia Foundation, Eurasia Partnership Foundation, UNICEF.

## CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS

The Labor Code of Georgia does not contain any special provisions ensuring the protection of journalists. It takes nothing for an employer to fire a journalist. Wages in the capital city are higher than in the regions. Delays in wages are reported in some media outlets. Inconsistencies are observed in size of salaries within one and the same media outlet. Some journalists undertake jobs in several media outlets for a relatively decent income. In general, broadcast media offer higher wages than print media.

No special license is needed to enter the field of journalism. However, employment opportunities are limited. Since pay levels are low and employment opportunities scarce, journalists adopt a conformist position and practice self-censorship.

Murders of journalists are not the case in Georgia. Legal or physical attacks are not frequent. The year 2010 saw fewer instances of violence and harassment against journalists. Attacks or harassment is more common in the regions than in the capital city. Some cases that attract public attention include: in June 2010, “Trialeti” TV reporters were allegedly attacked by the police when they tried to film the removal of a Joseph Stalin statue in the city of Gori. Investigative reporter Vakhtang Komakhidze, who fled the country in 2009, reported receiving death threats from authorities after he visited occupied territory of South Ossetia to produce a documentary on the 2008 Georgia-Russia war. He was granted political asylum in Switzerland. There were reports of physical attacks against journalists during almost three-month political protest rallies in Tbilisi in spring 2009, including on the part of rally participants and opposition activists. In June 2009, several journalists were attacked by local authorities using clubs to disperse a protest outside the police headquarters in Tbilisi. The Ministry of Internal Affairs subsequently suspended some of the officers involved in the incident.

Journalists suffer attacks from various social groups as well. The incident in “Kavkasia” TV on May 7, 2010 gained high public attention. Live televised debates on “Kavkasia” TV between leaders of two fundamentalist Georgian Orthodox groups and their opponents grew into a fistfight. A religious activist verbally and physically assaulted

some of the programme's guests and staff, including the founder of the TV station, outside the "Kavkasia" TV building and then broke into premises.

Religious conservatives also verbally attacked a host of GPB's programme after he hosted a discussion on the church's internal politics.

The most recent case of physical attacks against journalists caused uproar among local and international community. At least dozen of journalists were verbally and physically attacked in the melee that followed the dispersal of protest rally with tear-gas, rubber bullets and batons a few minutes after the permit for the rally expired on May 26, 2011.

"This use of force against reporters who were just covering events is intolerable", "Reporters without Borders" said. "Article 19" Executive Director, Dr. Agnes Callamard called on Georgian President "to condemn the use of force against journalists and ensure that no one can abuse journalists' rights with impunity".

After the start of the protests on May 21, 2011 several Georgian journalists reported being harassed by both the government and the opposition. In Batumi, the editor of the local newspaper "Batumelebi" was prevented by police officers from covering a demonstration outside the local TV station on May 21. Another journalist was physically attacked by one of participants in the rally in Tbilisi on May 22. The Ministry of Internal Affairs has launched investigation on these cases.

As the "Reporters without Borders" rightly noted: "Journalists are increasingly becoming hostages of the political tension in Georgia."

## **CHAPTER VII. INTERNATIONAL COOPERATION**

Media support to Georgia revived in 2010. The U.S. and European Union allocated large sums for media development projects.

The European Union supports a consortium of European and Georgian organizations in implementing a broad programme - The Media Strengthening Programme for Georgia. This 18-months programme started in late January 2010. The programme's key components include initiatives to help strengthen Georgian media associations and support those advocating for media freedom, promote better management and business development for independent media, help independent media produce high quality content, and expand the use of new media platforms. The consortium consists of the Paris and Darmstadt-based World Association of Newspapers and News Publishers (WAN-IFRA), Lyon-based IREX Europe, Georgian Regional Media Association and Civic Development Institute.

G-MEDIA, or Georgian Media Enhance Democracy, Informed Citizenry and

Accountability, is a four-year, USAID-funded programme implemented by IREX. G-MEDIA include a range of activities to best serve the Georgian media community, including targeted support for media outlets, curriculum development for educational programmes, support for legal defence and networking media associations.

G-MEDIA also works towards building a media literate public that demands higher quality news and information. IREX has partnered with several international and local organization to implement G-MEDIA. These include the Georgian Young Lawyers Association, Transparency International-Georgia and Social Impact.

Another IREX implemented project - Georgian Media Partnership Program (GMPP) is a two-year programme funded by the Public Affairs section of the US Embassy in Tbilisi. GMPP aims to build strong, collegial and lasting relationships between Georgian regional television broadcasters and broadcasters in the US via professional exchanges. The exchanges are focused to improve journalistic, technological and business management practices among the Georgian partners, who will then share their knowledge with their Georgian peers.

To address these challenges, GMPP will partner a total of four Georgian regional broadcasters with relevant US regional broadcasters for yearlong professional partnerships. Georgian and American broadcasters will participate in weeklong exchanges over the course of several months - to be complemented by virtual consultation - to meet the needs of the Georgian broadcasters, whether in journalism, technical issues or business management.

USAID, the European Union, and Open Society Georgia Foundation are among donors funding a number of smaller, ancillary projects to large-scale, complex programmes.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOS**

Non-governmental organizations have become increasingly supportive to media in recent years. Projects are designed to contributed to the development of independent and broadcast media; to protect journalists' rights, ensure transparency of media outlets, introduce high professional standards, improve professional skills, etc.

The most recent major development was the establishment of Coalition for Media Advocacy on April 13, 2011. A group of eleven watchdogs and media organizations established this Coalition to coordinate efforts towards improvement of media environment in the country.

The umbrella organization was founded by Georgian Young Lawyers' Association, Transparency International-Georgia, Open Society Georgia Foundation, Civic Development Institute, Eurasia Partnership Foundation, "For Civil Society" NGO,

Georgian Regional Media Association, Georgian Regional Broadcasters' Association, Regional Broadcasters' Network, Journalistic Ethics Charter Council of Georgia and Media Club. Founders say the coalition, apart from protection of journalists' rights, would focus on issues like transparency in issuing or modifying broadcast licenses by GNCC, as well as on improving access to public information.

In January 2011, seven regional TV stations founded the TV Network of Regional Digital Broadcasters.

The Georgian Regional Media Association and the Georgian Association of Regional Television Broadcasters (GARB) are among larger associations. Main goals of the Georgian Regional Media Association are to facilitate the development of free and professional media; to protect rights of media representatives; to facilitate establishment of necessary legislative environment for further development of media.

The Georgian Regional Radio Network (GRRN) is the union of four independent radio stations such as "Hereti", "Dzveli Kalaki", "Harmony" and "Atinati".

The Civil Society Institute mainly works with regional journalists. It led the efforts of regional journalists in creating the Georgian Charter of Journalism Ethics.

A recently established media trade union has not had any tangible impact on the industry yet. All associations and NGOs are dependent on donor funding.

## **CHAPTER IX. JOURNALISM EDUCATION**

There are several academic and training programmes in Georgia.

Tbilisi State University is the oldest educational institution in Georgia. It offers bachelor's, master's and Ph.D. programmes in journalism.

The Caucasus School of Journalism and Media Management (CSJMM) of the Georgian Institute of Public Affairs, the first Western-style graduate school of journalism in Georgia, offers practical, hands-on education at a master's level. CSJMM has journalism, media management and public relations programmes.

The Caucasus School of Media was established at the Caucasus University and offers bachelor's and master's level programmes in three academic areas: journalism, media management and strategic communication.

Ilia Chavchavadze State University offers bachelor's and master's level programmes in journalism.

Tbilisi Theatre University, the leading institution for cinema studies, also offers a television journalism programme at the bachelor's level.

Regional universities in Batumi, Kutaisi, Telavi and Gori offer journalism curricula.

Internews, Caucasus School of Journalism and Media Management, the Caucasus University run regular training programmes and professional courses for media professionals.

Short-term training provided by international groups are increasingly focused on application of new media tools.

Despite a diversity of journalism education programmes, some media researchers and practitioners say they are somewhat out of touch with market needs. Journalism courses tend to put theory before practice and the graduates often lack basic skills such as interviewing, audiovisual recording and editing.

The lack of quality textbooks in the Georgian language and by Georgian authors is a persistent problem.

# MOLDOVA MEDIA LANDSCAPE

## CHAPTER I. BROADCAST MEDIA

### Legal Framework

Broadcast media in Moldova are regulated by a number of laws and regulations that have the goal to ensure operation of a wide range of TV and radio services. Among the major laws regulating the broadcasting field are the Broadcasting Code No.260 of July 27, 2006, the Broadcasting Coordinating Council Statute, passed through the Parliament decision No.433 of December 28, 2006, the Law on Electronic Communications No.241-XVI of November 15, 2007, and the Electoral Code No.1381 of November 21, 2011.

Besides specific laws, broadcast media are regulated by a series of laws that provide for ensuring rights and obligations of media consumers, freedom of expression and the right to information, functioning of commercial media, etc<sup>17</sup>.

The Broadcasting Code regulates the public and commercial broadcasters' activity, advertising, exclusive rights, protection of journalists, consumer's rights, etc. It provides for the independence of editorial policies of the public broadcasters, the right of a person to have free access to broadcasters, and socio-political pluralism. Although one of the goals of the Code is to protect the rights of media consumers and to protect journalists, some provisions are far from being in accordance with the European standards. Media experts and international organizations, including "Article 19" Global Campaign for Free Expression and OSCE, assessed the Broadcasting Code as not complying with the EU recommendations.

Thus, there are problems related to ensuring independence of the regulatory body - Broadcasting Coordinating Council (BCC), to the funding and managing of the public broadcasters, to the licensing procedure, to ensuring transparency of media ownership, etc.

The Broadcasting Code contains provisions to safeguard national culture and European productions (Articles 11-12). Thus, according to it, by January 1, 2010, at least 80% of the programmes broadcast must be own, local or European production, and at least half of this share must be broadcast during prime viewing hours (Article 11[2]). Cultural and music programmes broadcast during prime time must "include local production holding a share of at least 60% in the weekly volume reserved for broadcasting the

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<sup>17</sup> The Law on Freedom of Expression, the Civil Code, the Contravention Code, the Criminal Code, the Law on Access to Information, the Law on State Secrets, the Law on Commercial Secrets, the Law on Advertising, etc.

relevant genre of audiovisual production” (Article 11[4]). However, the BCC has not demonstrated its interest in how the local broadcasters comply with these provisions. No relevant and consistent monitoring has been conducted recently in this respect; consequently no sanctions were applied for noncompliance with the Law provisions.

It is worth mentioning that in 2010 changes were made to the Broadcasting Code (Article 66) in order to increase the number of broadcasting license which may be owned by a natural person or a legal entity in the same territorial area<sup>18</sup>. Thus, grounds for media concentration/media monopoly were created.

Also, according to the Broadcasting Code, currently media outlets are required to disclose their founders, not the owners. Thus, the media transparency is impaired; in most cases the media owners are unknown.

In 2010, a group of media experts started designing a new draft law that is in line with European standards; in 2011 the draft of the Broadcasting Code was finalized and sent to the Parliament.

## Broadcast Media Market

Broadcast media, specifically TV stations, are the most important sources of information in Moldova, with about 71% of population saying TV channels are their first source of information. This indicator for radio was only 8%. Approximately 58% of people trust TV programmes they watch. Unlike TV programmes, the public trust in radio is in decline and has gone down to 8% in 2011, which is one of the lowest scores registered since 2004<sup>19</sup>.

According to the Broadcasting Coordinating Council’s data, currently 72 TV stations and 57 radio stations operate in the media market. There are four TV channels and six radio stations with nationwide coverage<sup>20</sup>. Cable television is available in all cities and towns, and also in villages<sup>21</sup>.

According to the audience research conducted by Imams Inc. Chisinau in May 2011, the most popular TV stations are “Prime” TV (3.1% rating and 23.8% market share), “Pro TV” (1.2% rating and 9% market share), “NIT” (1.1% rating and 8.1% market share) and “Moldova 1” (0.9% rating and 6.6% market share).

<sup>18</sup> The full text of the Broadcasting Code (in Romanian) is available at: [http://cca.md/sites/default/files/Codul\\_Audiovizualului\\_25.11.2008.pdf](http://cca.md/sites/default/files/Codul_Audiovizualului_25.11.2008.pdf)

<sup>19</sup> Barometrul Opiniei Publice (Public Opinion Barometer), IPP, May 2011 [http://www.ipp.md/public/files/Barometru/Brosura\\_BOP\\_05.2011\\_prima\\_parte.pdf](http://www.ipp.md/public/files/Barometru/Brosura_BOP_05.2011_prima_parte.pdf)

<sup>20</sup> “Moldova 1” (the public channel), “Prime” TV (re-broadcasts partly the Russian TV station “Perviy Kanal” programming), “2 Plus” (re-broadcasts partly the Romanian TV station “Antena 1” programming), “NIT”, “Radio Moldova”, “Antena C”, “Vocea Basarabiei”, “Radio Noroc”, “Hit FM” and “Europa Plus Moldova”

<sup>21</sup> There are 132 cable operators in the market

The only official media holding in Moldova is Journal Trust Media that comprises a TV station (“Jurnal TV”), an online radio station (“Jurnal FM”), 3 newspapers and an online web portal [www.jurnal.md](http://www.jurnal.md). The editorial policy of the holding is anti-communist and pro-liberal.

There are also several groups that have a unique editorial policy and in some cases employ the same editorial teams. According to media experts, currently at least 9 media institutions are guided by the Communist Party behind the scenes: “NIT” TV station, “Serebryaniy Dojd” radio station, newspapers “Moldova Suverana”, “Nezavisimaya Moldova”, “Comunistul” and “Puls”, and news agencies “Novosti Moldova” and “BASA-Press”. One more online news agency may be added to the list - OMEGA ([www.omg.md](http://www.omg.md)) that was created in 2008 and since then has been supporting openly the Communist Party.

Another 5 media are part of so-called “Prime” holding that comprises two TV channels with national coverage - “Prime” TV and “2 Plus”, two radio stations - “Prime FM” and “Radio Maestro”, one advertising agency - “Casa Media”, and an online news agency - [www.reporter.md](http://www.reporter.md). The editorial policy of those media is biased towards the Democratic Party.

There are also several groups that have the same founders and are managed by the same managerial team: “Analitic Media Grup” (“Infotag” news agency, “TV 7” channel and “Profit” magazine). The focus is on economic and business field; political news are covered relatively impartially, but there can be noticed a slight partisanship towards the Liberal Democratic Party.

Among the most viewed international broadcast media (with local programmes) there are “Perviy Kanal”, Russia, “CTC”, Russia, “NTV”, Russia, and “Pro TV”, Romania. According to media experts and to media research data, entertainment programmes produced abroad and relayed by Moldovan broadcasters overshadow news programmes. Therefore, the great majority of broadcasters fill their airtime by re-broadcasting foreign programmes<sup>22</sup>.

No major foreign investments have been in Moldovan media until 2010, although Romanian and Russian programming has a heavy presence on Moldovan television. “Jurnal TV” was launched by Jurnal Trust Media in March 2010 with investments from Reinstein Media Management German Company. In the beginning, “Jurnal TV” broadcast newscasts every hour in Romanian and Russian, through satellite. After one year of activity, “Jurnal TV” changed its format from a niche to a general one.

In April 2010, “Publika” TV was launched in Moldova by the Romanian trust “Realitatea Catavencu”. It produces programmes in Romanian and Russian, and airs newscasts

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<sup>22</sup> Media Sustainability Index, IREX, 2010

every hour through satellite. In May 2011, the channel was sold to the director of the station, a Moldovan citizen.

The TV advertising market has been growing rapidly: from one million USD in the early 90s to more than 20 million euro in 2008. In 2009 the amount decreased because of the economic crisis. According to Media Sustainability Index 2011, in 2010 the TV advertising market accounted for about 16 million euro a year. The most popular radio stations competed for 1.5 million euro in advertising.

The TV advertising costs oscillate from 200 to 2,600 USD per minute. Monitoring of media advertising is conducted by AGB Moldova, and the audience is measured by TNS Moldova Company. Media experts say they feel that market research is not objective, but influenced by the “Casa Media” advertising agency, which has a near-monopoly on the market and can use studies for its own interests<sup>23</sup>. “Casa Media” took over Video International Agency in November 2007 and distributes 72.3 % of television advertising. The agency has contracts established with five television stations: “Prime”, “NIT”, “CTC”, “2 Plus”, and “MuzTV”. These TV stations benefit from the largest share of TV advertising in Moldova<sup>24</sup>.

## CHAPTER II. PRINT MEDIA

### Legal Framework

The Moldovan print media are regulated by a series of laws, among which the most important are the Press Law No.243-XIII of October 26, 1994, the Law on Publishing Activity No.939-XIV of April 20, 2009, the Law on Freedom of Expression No.64 of April 23, 2010, the Civil Code No.1107 of June 6, 2002, the Code on Administrative Contraventions No.218-XVI of October 24, 2008, the Law on Access to Information No.982-XIV of May 11, 2000, the Law on Advertising No.1227-XIII of June 27, 1997, the Law on Entrepreneurship and Enterprises No.845-XII of January 3, 1992.

The Press Law guarantees political pluralism, freedom of the press, freedom of expression and establishes advertising limits. The Law provides for restrictions and sanctions that may be applied in order to protect morality, reputation and dignity, to prevent crimes, to protect public health, to ensure national security and territorial integrity, etc. According to the Press Law, foreign citizens and legal entities have the right to be only co-founders of print media and to own at most 49% of their statutory capital.

The Press Law of the Republic Moldova has been changed eight times since its

<sup>23</sup> Media Sustainability Index, IREX, 2010

<sup>24</sup> Media Sustainability Index, IREX, 2010

adoption. There are numerous amendments to this normative act designed without taking into account international practice. According to media and legal experts, the Law does not guarantee the independence of periodical publications; it only describes their structure and contains provisions that may endanger principles of freedom of press and pluralism of opinion. As an example in this respect may serve the provision that regulates financing of periodicals and press agencies. It says that “financing or sustaining periodicals by governments of foreign states is prohibited in any other form, but cases provided for in bilateral interstate treaties” (Article 12[4]). This provision is in conflict with the position of the European Court of Human Rights which held that the financing or any other form of foreign support of the media is interpreted as an activity in favour of freedom of expression, because the financing institutions do not affect the content and do not influence editorial points of view.

Freedom of expression, prohibition of censorship and insurance of presumption of innocence are provided in the Law on Freedom of Expression. It was passed by the Parliament and entered into force in 2010. The Law provides guarantees for exercising the right to freedom of expression, establishing a fair balance between this right and the right to privacy. It also provides the preliminary procedures to solve defamation litigations, detailed rules in terms of reviewing defamation cases, which would favour a fair examination of the suit, sets cases of exemption of responsibility for the media, etc.

The new Contravention Code upheld the contraventions of “insults” and “calumny” but changed the sanctions for them. For “insults”, administrative arrest was replaced with unpaid community work of up to 60 hours, and for “calumny” administrative arrest for up to 30 days was replaced with contraventional arrest for up to 15 days.

Legislation on media ownership, financing, sponsorship, state subsidies and anti-monopoly restrictions is vague and inaccurate<sup>25</sup>. The Press Law (Article 12) regulates the financing of periodicals and news agencies. The Law allows support for print media through donations from individuals and corporations residents in Moldova. It limits financing of periodicals by governments of foreign states in any other forms, except cases provided for in bilateral interstate treaties (Article 12).

Advertisements in print media, as well as in broadcast media and cinema, are regulated by Law on Advertising. It says that advertisements in periodicals funded by state budget and in those that do not specialize in disseminating advertising materials should not exceed 30% of the total space of one issue (Article 14).

The Law on Fighting the Extremist Activities provides for legal liability of the media for disseminating extremist materials and conducting extremist activities.

<sup>25</sup> Regulation of Property Rights, Financing of Media. Mass Media and Legislation, Chisinau, Editura Universul, 2003, p. 117

## Print Media Market

The impact of print media in Moldova is limited. According to a survey conducted in May 2011, only 9% of the population read newspapers on a daily basis and 22% - several times a week. The print media rating is in decline: in 2011 about 2% of respondents said newspapers and magazines are the most important source of information, while the trust people have in print media rated only 3%, which is one of the lowest score registered since 2004<sup>26</sup>.

Judging by the data included in the Media Guide edited by the Independent Journalism Center<sup>27</sup>, one can conclude that the print media market in Moldova is still emerging. This sector includes state, party, non-commercial and commercial outlets. Print media is divided along language lines, with about half of publications issued in Romanian and another half - in Russian<sup>28</sup>. There are also a number of publications in Gagauzi, Bulgarian, Ukrainian and Yiddish languages.

Overall readership of most newspapers is slowly declining due to increasing competition from television and the Internet. Circulation figures vary between 150-1,000 for quarterly and biannual bulletins and magazines, between 500-25,000 for weeklies and from 3,000 to 9,000 for dailies. It is worth mentioning that there are official data on circulation figures. The Auditing Bureau of Circulation that was created in 2009 had its first auditing in the first trimester of 2011.

The regional press is still underdeveloped and faces difficult challenges to keep up with new media technologies. At the same time, the press potential is concentrated mainly in the capital, where it has started developing into profitable business.

The most popular print media published in Romanian are: the weekly "Saptamana", with about 15% of market share and a centrist editorial policy; the daily "Timpul de dimineata", with approximately 7% of market share, the editorial policy, according to the last media monitoring reports, is pro-liberal and anti-communist; bi-weekly "Jurnal de Chisinau", with about 7% of market share, the editorial policy is pro-liberal-democratic; the daily "Moldova Suverana", with 2% of market share, has a pro-communist editorial policy<sup>29</sup>.

Publications issued in Russian language are leaders in the top with the daily "Komsomolskaya Pravda" - 30% of market share and the weekly "Argumenti i Facti" - 14% of market share<sup>30</sup>. Both of them are published in Russian Federation and have local inserts; their editorial policies focus on promoting those opinions and parties that

<sup>26</sup> Barometrul Opiniei Publice (Public Opinion Barometer), IPP, May 2011

<sup>27</sup> Media Guide, IJC, 2007

<sup>28</sup> "Moldpress" catalogue, 2010

<sup>29</sup> Audience Research, IJC, March 2011, available (in Romanian) at: [http://www.ijc.md/index.php?option=com\\_content&task=view&id=323&Itemid=117](http://www.ijc.md/index.php?option=com_content&task=view&id=323&Itemid=117)

<sup>30</sup> Both Russian newspapers do not indicate their circulation in the current issues. The figures presented are taken from Media Guide 2008, op.cit.

support pro-Russia views.

Newspapers in Moldova are distributed mainly by subscription, through “Posta Moldovei” distribution agency. “Posta Moldovei” is a state monopolist with the biggest distribution system that covers the entire territory of the country. The average monthly subscription to a weekly newspaper, for example, varies between 7 and 15 lei (0.4 and 0.9 euro) compared to 3-6 lei (0.2-0.4 euro) for a weekly issue sold through “Moldpres” news agency distributors.

Print media are mostly owned by private limited share companies; the state funds about 50 specialized publications and regional newspapers reporting on local and national government activities, whereas non-government organizations publish 42 titles. Party newspapers are published on a regular basis. Their success precisely reflects the success of the party: the expansion of the political movement leads to an expansion of the newspaper it publishes, whereas its decline results in a decline in circulation. The oldest party newspapers in Moldova are “Comunistul”, the press outlet of Communist Party, and “Flux” whose founder is the former leader of Popular Christian Democrat Party. Both newspapers have been operating in the media market more than 15 years.

The former government newspapers “Moldova Suverana” and “Nezavisimaya Moldova” were privatized in 2005. Nevertheless, currently they continue to be subjects of public debate concerning the legality of their privatization. The Government announced that the privatization was made with infringement of legislation and announced the privatization process was not legally completed.

Given the declining readership and low impact of print media, foreign investors are not interested in investing in the Moldovan market. However, in the end of 2010 the Romanian holding “Adevarul” opened an operation in Moldova - “Adevarul de Moldova”.

The print advertising market accounts for about 20% of the total market, with about 5 million euro for ads published in newspapers, and about 1 million euro - in magazines<sup>31</sup>. Experts note an increase in the advertising revenues during the recent year; however figures are much lower than in the region.

## **CHAPTER III. NEW MEDIA**

### **Legal Framework**

There are no specific laws that would regulate the Internet and online media in Moldova. In some cases, they are regulated through laws common for print or broadcast media. Among them, one can mention the Contravention Code No.218-XVI of October 24,

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<sup>31</sup> “Prices of Advertising in Moldova Grow Annually by 30 Percent - Experts”, November 2006, available at: <http://www.allmoldova.com/en/moldova-news/economics/1163415785.html>

2008, the Law on Freedom of Expression No.64 of April 23, 2010, the Civil Code No.1107 of June 6, 2002, the Law on Access to Information No.982-XIV of May 11, 2000, the Law on Fighting the Extremist Activities No.54-XV of February 21, 2003, etc.

Since the Internet is seen as a provider of multiple possibilities for access to information, for self-expression and exchange of opinions, for participation in debates, the State shall take necessary steps to promote the public service value of the Internet by ensuring access to them, in accordance with the Council of Europe's recommendations.

Although the Internet favours freedom of expression, the European trends are to limit some online content, through developing clear and strict regulations and self-regulation through codes of conduct and monitoring the content. The government should examine possibilities of establishing some legal mechanisms on ensuring protections of minors from the use of the Internet, in accordance with the CoE recommendations<sup>32</sup>.

### Online Media Market

According to the May 2011 Public Opinion Barometer, about 37% (about 1.3 mln) of respondents claim they use the Internet daily or several times a week; 12% of them regard the Internet as their primary source of information, overpassing print media and radio in this respect. The trust in online media has increased up to 13%.

Despite economic uncertainties in the European telecommunication market, the number of Internet subscribers increased in the first quarter of 2011 up to 292,000 in Moldova<sup>33</sup>. The penetration rate reached 8.2%.

According to the National Regulatory Agency for Electronic Communications and Information Technology, most Internet users are residents of urban areas. The majority of them are concentrated in big cities, mostly in Chisinau and Balti. More than 40 operators provide Internet access in Moldova, with "Moldtelecom" holding 65% market share (figures as of May 2011), "Starnet" - 17% and "Orange Moldova" - 4%<sup>34</sup>. The average download speed is about 15 Mbit-sec. It increased significantly during the recent years<sup>35</sup> and it is assessed by experts as being of good quality.

People in rural areas have limited access to Internet mainly because of financial reasons. Most people in villages do not have computers, i.e. means to access to the Internet. Besides, the high rate of Internet access tariffs limits the access of rural users

<sup>32</sup> The Recommendation CM/Rec(2009)5 provides that the states shall ensure that there are safe and secure spaces for children on the Internet and develop the responsible use of labeling systems for online content, for example by creating a pan-European Trustmark for labeling systems of online content

<sup>33</sup> <http://www.anrceti.md/news16052011>

<sup>34</sup> <http://www.anrti.md/search/node/utilizatori+internet>

<sup>35</sup> Dorian Postevca (a manager with "Moldtelecom"), "Piata de publicitate online e in continua crestere", November 11, 2009, available at: <http://www.azi.md/ro/story/6846>

to Internet. The average cost of monthly subscription is about 1000 MDL (65 euro) for legal entities and about 200 MDL (13 euro) for individuals. The tariff for individuals constitutes about 8.5% of the average income per capita.

The online media started developing in Moldova in the beginning of 2000 when the first publications in online format appeared. However, the limited access to Internet, the lack of funds and equipment, non-existence of an advertising online market hindered the development of this type of media for years. The most spectacular development was registered by online media in 2009. This is due to its role in the April events and those that followed afterwards<sup>36</sup>. The interest in online publications increased when they became the only timely sources of information for Moldovan citizens and of reference for international media. The news portal “Unimedia”, the website of the TV station “ProTV Chisinau”, the online version of the publication “Ziarul de Garda” and the stations “Vocea Basarabiei” and “Jurnal TV” were the most accessed sites in April-May 2009. The increased interest of the public served as a catalyst for periodicals, TV and radio stations to develop their online pages. As a result, a large number of Moldovan media outlets launched online operations that they administer in a professional manner and update regularly<sup>37</sup>.

According to the latest data, in total, there are about 6,239 Internet pages in Moldova<sup>38</sup>; 495 of them are news and media sites - news agencies, blogs, radio, TV, and news web portals.

Among online media published in Romanian and Russian<sup>39</sup> there are StireaZilei.md, Hotnews.md, ActualPress.md, Communicate.md, Enews.md, Internet-Moldova.md, and Jurnal.md, Nord.md, Politcom.md, Politic.md, Stiri.md, Yamnews.md, OMG.md, etc.

The most popular online media, judging by the number of unique visitors are “Unimedia” (about 16,000 daily visitors), Jurnal.md (about 5,600 visitors), and Publika.md (4,600 visitors). StireaZilei.md has about 2,400 daily unique visitors, OMG.md - 2,100, Azi.md - 1,200, Hotnews.md - 1,100.

The online advertising market is relatively concentrated; the advertising is predominantly posted on 10-15 web pages, and the most important pages in the top are owned by the same company - “Simpals”. Experts forecast a growth in online advertising in 2011 up to 1.3 mln euro<sup>40</sup>, based in part on the growing number of Internet users.

The average cost of a banner is about 50-300 euro a month. In Moldova there are not

<sup>36</sup> The Situation of the Press in Republic of Moldova, Annual Report, IJC, 2010

<sup>37</sup> The Situation of the Press in Republic of Moldova, Annual Report, IJC, 2010

<sup>38</sup> [www.ournet.md](http://www.ournet.md)

<sup>39</sup> [http://www.ournet.md/catalog/news\\_media/news\\_websites/index.html](http://www.ournet.md/catalog/news_media/news_websites/index.html)

<sup>40</sup> <http://itmoldova.com/2011/04/23/piata-de-publicitate-online-din-r-moldova-s-a-triplat-in-ultimii-2-ani/>

sellers of online advertising and this seems to be a problem. The most serious problem however is the lack of an institution that would regulate operations of all agencies that work on the Internet segment<sup>41</sup>.

## CHAPTER IV. ACCESS TO INFORMATION

Freedom of expression and speech, and access to information are basic rights guaranteed by the Constitution of Moldova. According to the Supreme Law, the state and private media are obliged to ensure that correct information reaches the public. The Constitution also provides that the right of a person to have access to all kind of information of public interest cannot be infringed.

There are several provisions in the Moldovan Constitution that are ambiguously formulated and leave space for interpretation. Thus, the Article 34 on the right of access to information, Part (4), stipulates that “the state and private media are obliged to ensure that correct information reaches the public”. This provision raises questions related to the status of media: the State should not have ownership in print media, while broadcasters funded by the state budget should have the status of public institutions. Consequently the term “state media” is not an appropriate one, especially after the state broadcasters were either transformed into public ones or privatized.

From another perspective, in accordance with European law, media have the mission to disseminate information and ideas of any kind, including the ones which offend, shock, and disturb or which can be considered by many including the government, to be partial, inexact or false. The State should not interfere into the relation established between media and public and should not identify the media as a provider of official information.

In general, the Law on Access to Information complies with the international standards in the field. However, the implementation of the Law is difficult. In some cases, public officials do not know the Law’s provisions or they simply ignore the Law in an effort to cover their professional inactivity. Although most officials are no longer refusing to release information, many of them are relying on a set of formal answers to requests for information.

There are a series of laws and legislative documents that contradict and impede the enforcement of the Law on Access to Information.

Thus, the Law on the Code of Conduct of the Public Servant provides that “the communication with the media in the name of public authorities is done exclusively by

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<sup>41</sup> “Piata de publicitate online e in continua crestere”, November 2009, available at: <http://www.azi.md/ro/story/6846>

the civil servant empowered with this right” (Article 8[3]). The Law stipulates that any break of the Code constitutes a disciplinary infringement that falls under the incidence of the Law on the Public Function and the Statute of the Civil Servant. Media and legal experts believe that the above provision aims at intimidating the civil servants against speaking out their opinions, criticism or reporting some frauds. The given provision is in contradiction with the Moldovan Constitution that clearly states that “The right of a person to have access to any information of public interest shall not be restricted” (Article 34[1]) and infringes the Universal Declaration of the Human Rights that stipulates: “Every person has the right to freedom of opinions and expression” (Article 19).

The Law on State Secrets establishes restrictions on materials that can be published by media and limits public access to official information. The Law defines “state secrets” and different categories of state secrets in broad terms, with the effect that a wide variety of types of information may be classified as state secrets. This is in conflict with the right to information provided by both the Moldovan Constitution and the Moldovan Law on Access to Information. This Law provides extensive power to public authorities and the Security and Information Service by enabling them to list as classified any information they consider to be a state secret. The Moldovan authorities were notified by international organizations that the document needed improvement because the Law did not encourage access to governmental information; however nothing was done in order to resolve the problem.

The Contravention Code provides for insignificant sanctions in cases when a public servant restricts access to information. The Article 71, Part (1) says that infringements of legal provisions on the access to information by public servants are to be sanctioned with fines from 40 to 50 conventional units (1 conventional unit = 20 MDL/1.25 euro). The same Article, Part (2) specifies that those servants who will provide deliberately the solicitor with erroneous information will be sanctioned with fines from 45 to 55 conventional units. These provisions are not functional and are not applied in practice.

There are a series of Government decisions setting fees for receiving information from the State Registration Chamber, State Enterprise “Cadastru” which, in the experts’ opinion, restrict the access to information.

## **CHAPTER V. MEDIA SELF-REGULATION**

Moldovan media are subject to the Code of Ethics of Journalists developed by the Council Press in 2010-2011. The Code is addressed to print and broadcast media, state and private outlets, and can also be applied to online journalists.

In terms of self-regulation, beside the Code of Ethics of Journalists, Moldovan

broadcasters use the Code of Conduct for Broadcasters<sup>42</sup> approved by the Broadcasting Coordinating Council in 2007. It includes a series of principles to which broadcasters must adhere in order to ensure fair, comprehensive and balanced coverage of all important events as well as socio-political pluralism.

As a self-regulatory tool, print and online media use the Code of Ethics of Journalists. It requires the media to abide to professional standards and ethical principles. The Code's basic provisions concern accuracy, fairness, and balance, urging the press to be impartial, to treat equally all sides and to provide the public with all relevant information needed in decision-making.

However, as media monitoring reports show, even though some progress may be noticed lately in complying with ethical norms and principles, serious problems still remain. Thus, a deficient language or semi-libellous phrases are used by some media, insulting the protagonists; the balance between the sources and opinions presented is not always ensured in the discussion of controversial issues, the number of materials from a single source is high - a fact that is not in compliance with the ethical norms<sup>43</sup>.

In many cases, facts are not separated from opinions in news reports, and some TV channels and newspapers have flaws regarding impartiality and balance of sources, as well as diversity of opinions. The language used, especially in opinion items, is in some cases pejorative, and many reports are accompanied by faked images violating deontological norms<sup>44</sup>.

In 2009, an important institution for media support and professionalization was created in Moldova: the Press Council of Moldova. The main function of this media self-regulatory structure is to consider complaints about editorial activities of Moldovan newspapers, magazines, news agencies and information portals. In order to avoid lengthy and expensive court procedures and the right of reply or a correction to satisfy readers' complaints, the Council tries to achieve agreement between two sides.

## CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS

**Media Partisanship.** In the last 2 years, after the democratic forces came to power, there have been noticed a certain progress in the media field. International watchdogs like "Freedom House" and "Reporters without Borders" remarked that Moldova indicators on media independence and freedom of expression have improved lately. Journalism environment has become more propitious; however, there are still factors

<sup>42</sup> Broadcasting Coordinating Council, available at: [http://cca.md/files/APEL\\_Cod\\_de\\_conduita.doc](http://cca.md/files/APEL_Cod_de_conduita.doc)

<sup>43</sup> Media Coverage of Topics of Public Interest. Media Monitoring Report, IJC, 2011, available at: [http://www.ijc.md/Publicatii/monitorizare/Raport\\_Ethics\\_2011.pdf](http://www.ijc.md/Publicatii/monitorizare/Raport_Ethics_2011.pdf)

<sup>44</sup> Elections Media Monitoring, IJC, 2011, available at: <http://www.ijc.md/Publicatii/monitorizare/MM-Report-Final-EN.pdf>

that may create obstacles impeding journalists to exert their profession freely of any external influence.

Thus, the media bias still remains a problem. All reports on media monitoring conducted by media NGOs (including IJC) during the last years showed that the public and private media are heavily biased towards various actors and have been serving as instruments of propaganda for promoting politicians' views<sup>45</sup>. Because of this, self-censorship is widely spread among Moldovan journalists.

**Defamation Lawsuits.** By supporting certain political parties or the government, some media deliberately publish/disseminate information that is perceived by those concerned as defamatory. Thus, there is a high possibility for the media to be sued for defamation. In 2010, for instance, there were 22 cases under examination on the protection of honour, dignity and professional reputation in which media outlets were defendants. And due to a lack of tradition in valuing media freedom and non-compliance of some media laws with the European standards, in some cases the courts rule in favour of politicians or other actors, their decisions being detrimental to the media.

**Limited Access to Information.** It is worth mentioning that there are still problems with limited access to information, which is in contradiction with the fundamental principles of the defence of the right to information and freedom of access to information. The governmental agencies are not as transparent as they claim to be. There are cases when journalists, specifically investigative reporters, cannot get the information they need in order to develop their investigative stories. Also, during the last year there were a number of cases when some journalists were denied access to events of public interest, including press conferences of high-ranked officials or politicians. The local and central administration work closely with the media that are biased towards them; only those media being invited to cover specific events and join official delegations.

**Abuses against Journalists.** In April 2010, the free-lance journalist Ernest Vardanyan (resident of Tiraspol, the capital of the self-proclaimed Transnistrian republic) was arrested allegedly for "high treason". He was accused of being a Moldovan "spy" and in December 2010 the supreme court of the self-proclaimed republic sentenced him to 15 years in prison. In 2011, Vardanyan was pardoned; however the climate of fear that this specific case generated among Transnistrian journalists is still strong in the region. In most cases, journalists avoid communicating with their peers from the right side of Nistru River; self-censorship is widespread among them, etc.

**Trade Unions.** There are no real journalists' trade unions in Moldova to defend and promote the professional, financial, and social interests of journalists.

<sup>45</sup> Elections Media Monitoring, IJC, 2011, available at: <http://www.ijc.md/Publicatii/monitorizare/MM-Report-Final-EN.pdf>

The Union of Moldovan Journalists was founded in 1957 as a creative organization and later in 1998 was re-organized into a journalistic union. It has around 400 members, but unfortunately it is not very active and has no real power of influence in society or among media organizations.

## CHAPTER VII. INTERNATIONAL COOPERATION

Given the major role of the press in a democracy's development, there is a high interest of foreign donors towards the Moldovan media. During the last decade, a series of projects aiming at developing and strengthening the free and independent media in Moldova were conducted.

Thus, one of the components of the Council of Europe and European Union Joint Program on Democracy Support in the Republic of Moldova has the goal to provide support to the development of pluralist media through supporting the reform of the Broadcasting Coordinating Council, supporting the reform of the public broadcaster, Teleradio Moldova (TRM); and providing training programmes for journalists on ethics, standards and professionalism. The component focuses on strengthening the professionalism in the media and introducing guarantees for the independence of the broadcasting regulatory authority through the purchase of monitoring equipment and training on media monitoring; establishing TRM as a genuine public-service broadcaster with an independent editorial line, as well as facilitating dialogue on ethical and responsible journalism through thematic roundtables.

The OSCE Mission to Moldova closely follows the media situation in Moldova, including on both banks of the River Nistru. The Mission - in co-operation with the OSCE Representative on Freedom of the Media - closely monitors broadcasting reform in Moldova. The Mission's activities aim at increasing transparency of the Broadcasting Regulatory Agency and at providing assistance for the reform and reorganization of Teleradio Moldova into a genuine public service broadcaster. The Mission supports training of journalists, including at the Chisinau School of Advanced Journalism (since 2007, the Mission supports journalism students from the Transnistrian region and the Gagauz autonomy through funding scholarships).

Foreign donors, including USAID and Soros Foundation-Moldova, have recently invested in establishing networks of local television outlets to enhance their ability to defend their interests. Examples of such networks include AICI TV Network, which consists of seven television channels, two cable channels, two newspapers, and two radio stations covering the Republic of Moldova and Transnistria. The Network was created within the three-year Media Program in Moldova, implemented by IREX with the financial support of USAID. The project goal was to raise professional skills at the stations, improve their performance as well-managed businesses, and ensure distribution of local and regional news across Moldova. In addition, the programme

aimed to improve the capacity of the media in Transnistria to serve local information needs.

The second network is the Regional Broadcasters Association, MERIDIAN - a network of local television and radio stations that includes 13 local radio stations and 15 local television stations. It is supported by Soros Foundation-Moldova. The goal of the project is to strengthen good and democratic governance in Moldova through increased public participation in decision-making processes at local and national levels and promotion of social inclusion policies for all groups of individuals.

Besides this programme, Soros Foundation in Moldova implements other media programmes, with the goal of supporting the development of the media sector. Currently, the Foundation focuses on strengthening the National Public Broadcasting Service. Another Soros Foundation programme focuses on facilitating independent media development in Transnistria and increasing the professional skills of Transnistrian journalists.

East European Foundation, EEF (the former Eurasia-Moldova Foundation), has been actively involved in supporting the media in Moldova, mainly through supporting the activity of Press Council and of the Audit Bureau of Circulation and Internet. EEF focuses on further development and good functioning of both institutions in order to improve transparency, quality and accountability of media. EEF has also other projects through which it provides direct financial support (grants) to regional media in order to help them to develop into viable and sustainable media.

Among other donors that support specific media programmes there are the Academy for Educational Development, UNDP, British Embassy, US Embassy, Embassy of Netherlands, National Endowment for Democracy, Swedish International Development Cooperation Agency (Sida), etc.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOS**

The most active supporting media NGOs, which play a major role in defending the rights of journalists and organizing professional training for them, are: the Independent Journalism Center (IJC), the Independent Press Association (IPA), the Association of Electronic Press (APEL), the Committee for Free Media, the Journalist Investigations Center, and "Acces-Info" Centre.

The media NGOs play a major role in building and adapting the media outlets capacities to new realities and conditions of work. They conduct various media programmes with the goal to assist the media in their efforts to become free and independent. Among them one can mention:

- Media assistance and professionalization programmes, including training programmes for journalists and trainers from different media, with the participation of foreign and local experts;
- Journalistic competitions, including the annual survey “Ten Journalists of the Year”;
- Publications, including textbooks, guidelines, analytical bulletins, supplements to regional newspapers, etc.;
- Media research, including monitoring the media behaviour during election campaigns, monitoring of media coverage of issues of public interest, audience studies, surveys and polls on relevant issues, studies on access to information, etc.;
- Legislation analysis/expertise, including reviews of media law and designing amendments/draft laws;
- Legal consultancy, including free of charge in-court representation;
- Advocacy campaigns;
- Monitoring abuses of the freedom of expression and the rights of journalists. Although media NGOs actively defend the freedom of speech and interests of independent media, still they have not yet managed to achieve solidarity of the media as a guild that could influence public policies<sup>46</sup>.

Their core activities are concentrated in Chisinau, but these organizations pay a lot of attention to local media, too. For instance, the Independent Press Association’s members are exclusively local media, and the Independent Journalism Center focuses on media in Gagauzia and Transnistria. Events are organized in the northern part of the republic as well as in Gagauzia; in-house training is organized at editorial offices in the regions and local journalists are invited to events in Chisinau.

## CHAPTER IX. JOURNALISM EDUCATION

**Long-term Training.** There are seven state and private education institutions that offer either undergraduate or graduate journalism training in Moldova: Moldova State University, Free International University of Moldova (ULIM), Moldova Slavic University, University of European Studies of Moldova, the Gagauzia State University in Comrat, and the University of Tiraspol (Transnistrian region). They provide long-term education - up to 5 years, providing students with officially recognized diplomas<sup>47</sup>.

<sup>46</sup> Media Sustainability Index, IREX, 2011

<sup>47</sup> Exception makes the University of Tiraspol

The largest department of journalism and sciences of communication is the one at Moldova State University (MSU), where students can choose among four majors: Journalism, Communication Sciences, Publishing, and Library, Archive and Information Assistance. The MSU operates in accordance with the Bologna Process requirements.

The Department of Journalism and Public Communication at the Free International University of Moldova has been founded in 2001 in line with the Bologna Process requirements. The same University opened in 2004 the Mass Media Institute at the Free International University of Moldova with the main objective of undertaking scientific research in the field of mass media and social communication.

The Department of Journalism and Public Communication at the University of European Studies of Moldova has been founded in 2005.

The Department of Journalism at the Moldova Slavic University teaches journalism in Russian language. It has approximately 60 students per year.

The Journalism Department within the State University of Comrat teaches journalism to approximately 10/20 students from the Gagauz Autonomy.

Nonetheless, all the above institutions of higher education are still operating with limited human and financial resources and are struggling to keep up with the fast-paced new media emergence.

**Mid-term Training.** The Chisinau School of Advanced Journalism is a graduate journalism programme run since 2006 by the Independent Journalism Center in Chisinau. It annually trains 16-18 journalists in a 10-month intensive course and is the only institution to instruct journalists using the latest methods in terms of technologies as well as with highly qualified experts and professionals in the field.

**Short-term training.** Some alternative education is conducted through special courses, seminars and workshops. These types of training do not have academic standing, and certificates issued by their organizers, mainly non-governmental organizations, are not officially accredited. As a result, media executives do not require that prospective journalists take any of these courses. Local media do not provide formal training for their journalists, often because of lack of funds for hiring training instructors, or of specific training programmes meeting their needs<sup>48</sup>.

Media NGOs provide several (2-4) face-to-face trainings every month, usually free of charge. There are also a few short-term training courses provided in the workplace. Such TV stations have been organizing in-house training led by Western experts. In some cases, because the media lack financial resources, the training programmes are

<sup>48</sup> Media Sustainability Index, IREX, 2011

organized by local NGOs, with support of foreign donors. Unfortunately, the opportunities offered by various media NGOs are not fully exploited; they are sometimes ignored by journalists or editors who are not pleased by the absence from work of employees engaged in short courses.

# UKRAINE MEDIA LANDSCAPE

## CHAPTER I. BROADCAST MEDIA

### Legal Framework

Broadcast media (TV and radio sector) is regulated by the National Council on Television and Radio Broadcasting (hereafter the National Council), a constitutional, constantly operating collegial body, whose activities are aimed at supervising the observance of Ukraine's legislation in the sector of broadcast media as well as at exercising regulatory authorities prescribed by respective laws. The state regulation is exercised on the basis of a special Law of Ukraine "On Television and Radio Broadcasting" adopted in 1997 and amended each year. The amendments primarily concern the content of TV advertising and licensing of TV and radio companies.

The amendments introduced in 2010 to the above-noted Law envisaged an increase of license fee for all operators receiving licenses from the National Council: TV and radio companies, Internet and cable TV providers.

Year 2010 saw changes in the composition of the National Council. The new appointments (new members were co-opted on the part of the President of Ukraine and the parliament) turned to be absolutely political: most of the newly elected members of the Council were not closely linked to TV and radio sector before. The decisions of the National Council to recall the broadcasting licenses that it had earlier issued to TV channels "5 Kanal" and TVi - the channels that are to some extent in opposition to the ruling government - were especially controversial. These decisions were condemned by the Parliamentary Assembly of the Council of Europe as politically biased and lacking understandable and sustainable criteria for selecting winners of licensing competitions. Thus, the period of 2010-2011 is characterized by the redistribution of broadcasting frequencies, growth of a license fee, leading to monopolization of the market, and failure to make specific steps to switch to digital broadcasting and to the public broadcasting system.

The idea of introducing public broadcasting system in Ukraine has been already discussed for more than 10 years, but still there is no sign of political will to put it into practice. The administration of President Viktor Yanukovich has declared that in 2010 state-owned broadcasting would be transformed into public broadcasting. A draft law "On Public Broadcasting and Radio Broadcasting" was developed by the State TV and Radio Committee upon the President's initiative. It was based on the concept approved by the Public Humanitarian Council under the President of Ukraine. Yet, still at a drafting stage this concept was widely criticized in expert circles as not corresponding to international standards of transition to public broadcasting. On

June 9, 2011 Ukraine's Government approved a bill introducing even larger extent of state regulation than the concept developed by the Presidential Administration. The Government's bill was criticized by the Presidential Administration, which decided to submit it to the Council of Europe for expertise. It will depend on the time of receiving conclusions from the Council of Europe whether the parliament will manage to endorse this bill before the budget preview for 2012. There is also an alternative bill drafted by an opposition MP, but, by all accounts, it has no prospects to be approved.

**Digital Broadcasting.** The absence of a legislative framework that would regulate the process of introducing digital broadcasting and determining strategic fields is a serious problem. Yet, the uncoordinated work of different branches of state government, first of all, bodies included in the system of the Cabinet of Ministers of Ukraine and an independent audiovisual regulator - the National Council of Ukraine on Television and Radio Broadcasting, which is not subordinate to the Government, constitutes even the bigger problem.

The process of introducing digital broadcasting in Ukraine was spurred after the announcement of a national provider, "Zeonbud" Ltd, by the National Council in December 2010. As of now, "Zeonbud" has announced a schedule of building a network of digital broadcasting, in particular, the installation of 668 transmitters, which will be mounted on 167 transmission stations throughout Ukraine. It is quite probable that digital signal propagation, parallel to analogue signal, will be launched in November 2011. Ukraine has chosen DVB-T2 format for digital signal.

The main problems faced by Ukraine in the process of introducing digital broadcasting are the following:

- In a number of regions, an excessive demand from local and regional broadcasters for empty seats in multiplexes is observed. Local broadcasters constantly criticize the lack of transparency in the process of "migration to digital broadcasting";
- Any policy regarding the supply of receivers that are needed to receive DVB-T2 signal by socially vulnerable layers of population is absent. The Head of the National Council has demonstrated the data showing that out of 17.5 million households in Ukraine, only 1 million are equipped with transmitters capable of receiving digital signals. The state demonstrates impressive inertness as well as the intent to introduce digital broadcasting according to non-transparent schemes, respectively, does not make any adequate efforts related to the social aspect of the process of transferring to digital broadcasting;
- There is a threat of the monopolization of a market of digital broadcasting due to the existence of only one provider and the liquidation of many regional channels.

## Broadcast Media Market

As in previous years, television currently remains the most popular type of media in Ukraine. The TV segment of the media market is the most attractive for advertisers, and the share of TV advertising is the largest in the general structure of the advertising media market.

Between 2007 and 2011, the Ukrainian TV market was demonstrated by the following trends:

- Growing number of new projects (talent shows, purchased or produced TV series, political talk shows, and niche/specialized TV channels), development of social media networks;
- Further concentration and integration of media assets;
- Scarce involvement of foreign media groups (CME was the only powerful TV group present on Ukrainian market, but it left the market in 2010);
- Growing political and business pressure on media (in fact, bulk of Ukrainian TV media market is distributed among powerful Ukrainian business groups which are close to politics). Experts forecast that competition between six leading channels - "Inter", "1+1", "Ukraina", ICTV, "Noviy Kanal" and STB will further intensify.

A financial crisis that hit Ukrainian economy heavily during the last quarter of 2008 has also adversely affected the Ukrainian TV market. However, recently the market has shown signs of revival. According to the data provided by the All-Ukrainian Advertising Coalition, the total volume of direct TV advertising market in 2010 constituted around 250 million euro, thus demonstrating the return to the pre-crisis level.

The economic crisis has impeded the further development of niche projects, severely affected regional TV companies, and impacted on the consistent trend for further commercialisation of the Ukraine media landscape. This led to the deterioration of quality of social and political journalism and to the shrinking demand for analytic projects.

Ukrainian TV audience is dependent on cinema and TV series, with some TV series hitting the top of audience share reaching over 20%, much higher than any political talk show, even the most popular one. Ukraine's television fits well into the global trend, moving from public debate television (political and social discussion) to entertainment and infotainment, in which TV series, reality shows and talent shows play the ever increasing role.

## CHAPTER II. PRINT MEDIA

### Legal Framework

Activities of print media in Ukraine are regulated by a number of Laws - “On Print Media (Press) of Ukraine”, “On Information” and “On State Support for Media and Social Protection of Journalists”. Till recently, registration of print media was in the competence of the Ministry of Justice of Ukraine, but on June 15, 2011, the Cabinet of Ministers of Ukraine passed a resolution to hand over the functions of state registration of citizen associations, charity funds, non-governmental organizations, print media, and information agencies to a newly established body - the State Registration Service.

The Law of Ukraine “On Print Media (Press) in Ukraine” has been in force since 1994 and was recognized by international experts (in particular, by the OSCE in 1998) as liberal regarding regulation of journalists’ rights, grounds for freeing editorial boards from liability in case of dishonest information, and information disclosure. The main legislative activity in the sphere of print media in 2011 is still expected around the draft law “On Reform of State and Municipal Media” (No.6468) that already on June 2, 2010 has been submitted to the parliament for consideration. According to forecasts, the longer the process of adopting this law will be postponed, the harder will be the situation for state-owned media. Experts believe that only 10% of state-owned print media will stay on the market, and “rayonki” (district state and communal media outlets) will have to merge, not having any other option<sup>49</sup>.

### Print Media Market

According to the Ministry of Justice of Ukraine, more than 30 thousand periodicals with national and local audience are officially registered in Ukraine. Out of them, only slightly more than 4,300 periodicals (60% - newspapers, 40% - magazines) are published regularly.

According to “DP Presa”, a state-owned press distribution company, 2,354 nationwide, 1,073 oblast and district, and 948 municipal media were being distributed through post offices in 2010.

Among newspapers, local (oblast, regional, municipal and district) newspapers constitute the majority - more than 1,800 titles, while there are only about 700 nationwide newspapers. Among magazines, outlets with national registration and distribution prevail - 1,600 out of 1,700 magazines are registered nationally.

Daily newspapers constitute only 1% of all print media published in Ukraine, while

<sup>49</sup> Sergiy Cherniavskiy. “What is the Future of the State-Owned Press?”, available at: <http://www.mediabusiness.com.ua/content/view/22205/124/lang,ru>

weeklies reach almost 85%.

According to Ukraine's State Property Fund, 106 media are owned by the state and 818 are owned by the local communities, which constitutes 22% of the total number of all media. These periodical editions receive direct funding from the central or local budgets, as well as privileges and benefits. This means there is unfair competition on the press market. Financial non-transparency of community-owned and state-owned press stimulates the dependence of editorial boards on public authorities and local self-governance bodies, as well as on their officials.

Concentration of property and strengthening of control over social and political media from financial-political actors is observed on the market of private nationwide media. Several powerful media holdings, owned by popular Ukrainian businessmen and politicians, provide informational support to their business and political initiatives. It should be emphasized that there are very few independent nationwide political media that are focused on the interests of their audience rather than on interests of their owners or supervisors. During the last year, interference of owners in editorial policy of political media has significantly grown, resulting in conflicts, to the resignation of some managers and editors from their nationwide outlets, and even to the closure of those media. For instance, in 2011, despite the support from journalists' team, founders of "Gazeta Po-Kievski" ("Kyiv-Style Newspaper") have left the newspaper following pressure from owners and a conflict within the newspaper, and after some time, the newspaper ceased to exist. Editors of a number of large weekly newspapers have also resigned. As a result of a conflict between an owner and an editor of Ukraine's leading English-language newspaper "Kyiv Post", the editor was suspended and returned to his job only after a strike of the editorial team.

At the regional level this influence is also noticeable, however among local media there are more independent newspapers defining their editorial policies according to the needs of their audiences. There is also another trend in the development of local private media - the creating of a media company of a complete cycle including both printing facilities and distribution networks. These media corporations, previously launching their businesses as a newspaper company, eventually began to practice the diversification of media platforms: television, radio and Internet portals. This trend is making a convergent newsroom, more and more wide-spread, since it enables producing the media products for all the departments of a media corporation.

During last five years, foreign media investors have massively left the Ukrainian market of socio-political and business media because of the financial crisis and the domestic political instability in Ukraine. Today, foreign investors have entered a number of publishing houses specializing primarily on niche and entertainment periodicals.

Total press revenues in Ukraine in 2010 constituted more than USD 0.9 billion,

according to Sergiy Cherniavskiy, the Head of the Information Industry Committee of the Ukrainian Association of Publishers of the Periodical Press. The largest growth has been observed in the subscription segment.

The common problem of the Ukrainian press is unreliable information about number of copies (circulation) declared by most print media. Any efforts to establish an Audit Bureau of Circulation to check the real number of copies printed and distributed faced opposition within the industry and finally failed.

In view of their circulation, the leading positions in the print media segment are occupied by infotainment magazines and newspapers, TV guides and niche editions, first of all - women's magazines. In the past 2-3 years, subscription figures have been increasing by 3-4% annually.

There are approximately 22,500 print media retail sales points in Ukraine. The retail trade system is composed of private (newspaper stands, shops, supermarkets, petrol stations) and public sales points (14,500 branches of the "Ukrposhta" ["Ukrainian Post"]). According to the "Cartel" Trading House, out of 8,158 private points of retail sales, newspaper stands account for 45%; supermarkets and petrol stations - for 23%, and private chaotic street sales - for 30%.

Subscription to periodicals is mostly monopolized by the "Ukrposhta". Although almost 200 subscription agencies are operating in Ukraine, their share in the real supply of subscribed periodicals remains modest. At the same time, subscription through "Ukrposhta" does not satisfy the distribution needs, especially in the regions.

As of today, Ukraine has a demonopolized and diversified printing system. In every oblast (region), there are several private printing houses, as well as a number of state-owned and community-owned enterprises, which satisfy needs of the industry.

The Ukrainian advertising market is non-transparent and only slightly structured on the regional level. It is significantly influenced by latent advertising, the so-called "jeansa", which, according to different publishers, is reaching 10-30% of total advertising revenues. Market analysts are emphasizing gradual increase of the print press market after the crisis - in 2010, the market has increased by around 16% as compared to 2009.

## CHAPTER III. NEW MEDIA

### Legal Framework

The issues of the legal status of online media, procedure for their registration, principles of functioning and the status of online journalism still have not been addressed in

Ukraine. Neither voluntary nor mandatory registration of an online media is prescribed. The Laws of Ukraine “On Protection of Public Morality” and “On Private Pension System” briefly mention the concept of “electronic media outlet”. However, key laws in the media sphere (“On Television and Radio Broadcasting”, “On Information”) do not provide any explanation for the legal status of online media.

If an editorial office of online media wishes to have a status of informational edition in order to use it during the submission of requests for information, and in this way to get rid of liability if a defamation claim is issued against it, then it can register a news agency. News agencies operate on the basis of the Law of Ukraine “On News Agencies” and can distribute its information online - both as a paid service (online subscription to news) and gratis.

In 2010-2011, Ukraine’s government attempted to interfere in Internet regulation, which made the OSCE warn the authorities against such actions.

### **Online Media Market**

Internet audience is dynamically growing in Ukraine. Today the number of users accessing the Internet at least once a month is approaching 15 million people.

As of December 2010, 535,000 domain names (this figure corresponds to the number of unique registered sites) are registered in the blast zone .UA.

In 2010-2011, social networks have become an indispensable element of online presence of Internet users. Social networks such as Facebook, VKontakte, Odnoklassniki are in the top-10 of most popular sites in Ukraine. UGS-sites (user generated content sites), namely YouTube, Wikipedia and LiveJournal have also hit the top-10 of Ukrainian sites.

**Wikipedia.** The Ukrainian segment of Wikipedia is ranked 16 in the world by number of articles, contributed by more than 4 thousand of volunteers.

**Blogosphere.** 700,000 blogs existed in the Ukrainian internet as of the 4th quarter of 2010. In 2010, the number of blogs has increased by 40%. According to Yandex, 120 thousand blogs are active, with at least five records per month. LiveJournal.com remains the most popular blog host.

**Twitter.** During 2010, the number of Ukrainian Twitter users as grown by 400% and constituted 80 thousand. Back in May 2010, the number was still 35 thousand.

**Facebook.** In early 2011, Facebook audience in Ukraine constituted 1.02 million users. In the second half of 2011, its audience increased by 2.4. Today Ukraine is ranked 68 in the world by number of Facebook users. The Facebook audience will continue to

grow, and, respectively, one can expect rising advertising costs in Facebook. In 2010, advertising costs oriented at Ukrainian audience have already grown by 3 times - from 0.11 to 0.33 USD for every click.

While in 2009 the transition to Internet platforms and social media seemed for many editors a simple and understandable change of format in the crisis period, 2010 has become a year of rethinking the role of social media in the context of editorial needs. The largest media make an emphasis on permanent updating of websites and, respectively, on their integration into the resources with larger number of users.

An example of “Ukrainska Pravda”, the largest socio-political Internet edition in Ukraine, is illustrative. Without any advertising costs, it now has more than 17,000 “likers” (followers) in Facebook.

The market of mobile applications is also growing. In 2011, key Internet media launched mobile applications for their websites.

Most of Ukrainian online media do not bring profit to their owners, since economic expedience and profitability is not their key task. Revenues of online media are not public, and can be calculated only through annual advertising indicators.

Currently advertising experts believe that Internet advertising is the most rapidly growing market segment.

## CHAPTER IV. ACCESS TO INFORMATION

Until recently, laws on access to information did not exist only in Ukraine and Belarus. The renowned international organizations have repeatedly drawn attention of Ukrainian authorities to the fact that adoption of such a law was the main prerequisite for protection of individual freedoms and development of democracy. For a long time, access to information to Ukraine was hindered by the practice of refusing to grant any information to a journalist or the society just by classifying it as “for official use only”. Deadlines of providing information - 30 days - used to undermine any attempts to prepare journalist materials. It has taken almost two years to adopt a law on access to information in Ukraine and has been spurred by an active campaign of journalists and NGOs. Now the adoption of this law is considered one of the few victories of civil society.

On January 13, 2011 Ukraine’s parliament adopted the Law of Ukraine “On Access to Public Information” (the draft of this law was highly praised by experts from the international organization “Article 19” and the Council of Europe). The Law entered into force on May 9, 2011.

The Law grants new opportunities both for average citizens and journalists - in particular, it has significantly broadened the circle of subjects obliged to grant information upon request. In addition to government and local self-government bodies, these subjects also include other state structures (prosecutor's office, courts, election commissions, etc.) as well as any economic subjects having information about the following:

- State of environment;
- Quality of food and household items;
- Accidents, catastrophes, dangerous natural phenomena and other events posing a threat to health and safety of citizens;
- Any other information that constitutes public interest.

The above-noted subjects and individuals are obliged to publish and provide information upon request, according to the procedure prescribed by the Law.

With the adoption of the Law, deadlines for granting information upon request have significantly changed - the right for prompt (within 5 working days) receipt of public information was established for natural and legal persons as well as for citizen associations that do not have a legal person status. The Law also contains the provisions on information with limited access that guarantee the non-disclosure of information only in really justified cases.

The introduction of amendments to Article 13 of the Law of Ukraine "On Intellectual Property Rights and Related Rights" has become a good bonus for the journalists. This article regulates issues related to agreeing a text of an interview with an interviewed person. In practice, this provision has raised many controversies when an official, responding to questions of the journalists concerning his or her activity, insisted afterwards on agreeing the final text, erasing the most interesting words and comments during the check-up. With the new amendment it has become clear that these provisions are not related to situations covered by the Law "On Access to Public Information".

Another problem related to the issue of access to information is the right of journalists not to disclose sources of information. The Law of Ukraine "On Print Media" sets up the journalist's right not to disclose information sources unless obliged to do so by a court ruling. Another Ukraine's Law "On Enforcement of Judgments and Application of the Practice of the European Court of Human Rights" incorporated the case "Gudvin vs. Great Britain" into Ukraine's legislation. However, 2010-2011 have been remarkable for a considerable setback in the implementation of these norms - in particular, several

searches of journalists and bloggers with the removal of hard drives of computers and notebooks have been conducted, followed by questioning of those journalists as witnesses with the purpose of learning about their information sources. The security and law enforcement bodies that carried out those searches and interrogations refer to the fact that the Code of Criminal Procedure of Ukraine does not indicate journalists among those who cannot be subject to such measures.

Therefore, implementation of the norms that are in line with European standards in Ukraine is impeded through the lack of effective transparent management and the independent judiciary.

## CHAPTER V. MEDIA SELF-REGULATION

Ukraine is still moving to the self-regulation models applied in developed democracies, which exist with government support or on the basis of professional associations or unions.

Ukraine has a self-regulation body for journalists - the Commission for Journalist Ethics (CJE), which functions as a corporate institute of the civil society and examines conflict ethical or professional situations emerging in the journalistic environment between journalists and the general public and related to the journalists' performance of their professional duties.

The CJE acts on the basis of the Ethical Code of Conduct for Ukraine's Journalist adopted in 2002. Since that time, around 2,000 journalists have signed this Code (according to expert assessment, around 20,000 persons currently work in the media sphere). The Code of Conduct contains 18 articles based on the rights and freedoms proclaimed by the Universal Declaration of Human Rights, UN Charter for a Free Press, Declaration of Principles on the Conduct of Journalists of the International Federation of Journalists, the Constitution of Ukraine, and acting Ukraine's legislation.

The current composition of the CJE (15 persons) was elected in March 2011 by a congress of signatories of the Ethical Code of Conduct. The Commission for Journalist Ethics meets 10-12 times a year.

The CJE reviews conflict ethical situations upon a relevant request from a journalist or from other persons or organizations interested in ethical assessment of action by a specific journalist, editor, media owner or public authority having competencies in the media sphere. Upon the review of a case, the CJE may condemn the situation or relevant actions and make a public statement.

In 2006, the CJE issued the first manual "Journalistic Ethics" for students of Ukrainian higher education establishments.

In 2010, the CJE passed several important resolution, including the condemnation of the practice that was observed during the local elections in Ukraine - i.e. the unlimited issuance of hundreds of journalist IDs to people who do not have anything to do with the media but who were able to be present at polling stations due to the possession of a journalist ID.

Furthermore, the period 2010-2011 was remarkable for attempts of the National Expert Commission of Ukraine on the Protection of Public Morality (NEC) to interfere in media self-regulation sphere. The NEC is a permanently functional state expert and controlling body examining media production for sexual and erotic content as well as presence of violence and cruelty. The NEC has become notorious for its attempts to prohibit a range of media products that in view of its members violated principles of Christian morality and advocated sex and violence. In opinion of the public, the NEC's activity is the institutionalization of state censorship. In May 2010, the NEC published its own version of the Ethical Code of Conduct for Journalist that is alternative to Ethical Code of Conduct for Ukraine's Journalist. This was justified by the ineffectiveness of the former Code. The initiative did not gain support from journalists' professional environment, however, attempts to regulate journalist ethics "from above" may continue.

## **CHAPTER VI. WORKING CONDITIONS OF JOURNALISTS**

**Labor Rights.** Journalists' labour conditions in Ukraine are regulated by a general law - the Labor Code (not containing any specific rules for journalists), a special Law "On State Aid to Media and Social Protection of Journalists" (mandatory insurance of journalists by editorial boards, 36-day vacation per year, and equalization of wages and pensions of journalists representing state and local media with wages of public servants), sector-specific laws (granting journalists the rights to participate in media activities, in particular, to elect editors of print media, to establish editorial boards in TV and radio companies, etc.). Although the legislation is quite developed, its implementation does not guarantee observance of labour and professional rights of journalists.

Ukraine has many state-owned and communal-owned media. Journalists working in these editions are in privileged positions, compared to journalists of private media.

Many regional media practice a double pay system - a very modest official pay and an unofficial salary in cash. In this manner, editors decrease a tax burden on their media and, at the same time, receive an additional leverage to control potentially disloyal employees. Salaries in the capital city and in the provinces differ substantially and vary from USD 250-600 in the provinces to USD 400-1,500 in Kyiv.

Labor contracts are very rare in Ukraine, and there is no structure of production relations

that would allow concluding contracts on the level of companies. One of the effective instruments for protection of labour rights - journalists' trade unions - is underdeveloped and does not enjoy credibility with majority of journalists. However, exactly those trade unions have brought forward systemic initiatives on building a civilized labour market and establishing a social dialogue with employers. Namely, in June 2011, Kyiv Independent Media Trade Union has started its first research of the labour market of journalists working in Kyiv, which should grow into an annual research project.

In Ukraine, access to career in journalism is not restricted - neither special education, nor license or qualification exams are needed to start work as a journalist. Yet, this leads to the absence of professional standards in journalism.

**Press Card and Accreditation.** Unions and trade unions of journalists in Ukraine pay special attention to press cards that emphasize independence and professional status of journalists. Currently the most popular forms of journalist identification include an editorial journalist card, a certificate of membership in the National Union of Journalists, and a press card of the International Federation of Journalists.

Attendance of official events organized by government bodies in Ukraine requires accreditation that is often used as a manipulation mechanism: non-permanent one-time accreditations, limitations in time, and privileges for state-owned media violate the principle of equality. Several years ago, the mechanism of free access of journalists to official events (with prior notification) was elaborated, meeting European standards. However, various press services started to use accreditation as an instrument to deny access to official events for independent journalists and representatives of opposition media, referring to lack of places.

Since May 9, 2011, after the Law of Ukraine "On Access to Public Information" entered into force, foreign journalists were entitled to work in Ukraine without prior accreditation in the Ministry of Foreign Affairs. Restrictions for foreign journalists as well as for their Ukrainian colleagues come into force only if they intend to attend events organized by government bodies. According to the new Law, in this case ministries and agencies have the right to demand prior accreditation of journalists.

**Defamation.** The Article 171 of the Criminal Code of Ukraine sets up criminal liability for any prevention to journalists in exercising their professional duties or their persecution for criticism. Since 2005, when a judgment of the European Court of Human Rights against Ukraine on Article 10 of the European Convention on Protection of Human Rights and Fundamental Freedoms ("Freedom of Expression")<sup>50</sup> was delivered, the jurisprudence on defamation cases has been consistent with European standards. In their rulings, judges have been directly referring to the jurisprudence of the ECHR.

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<sup>50</sup> The case "Ukrainian Press Group vs. Ukraine" that was based on the appeal against the situation when Ukraine's courts used to recognize the articles containing critical remarks about Ukrainian politicians as defamatory

In 2009, the Supreme Court of Ukraine generalized its jurisprudence in the sphere of information issues and obliged judges to adhere to European standards regarding freedom of expression. However, in 2010, judicial practice was adversely affected by the so-called court reform that had put Ukrainian judges into full dependence, on one hand, on the Presidential Administration controlling the Supreme Justice Council, and, on the other hand, on the parliament that can decide to discharge any judge.

**Political Influence.** Political influence on journalists' activities in 2010-2011, like in previous years, was channelled through media owners who primarily treated media as projects of political influence. This trend was manifest in various forms of indirect censorship and excessive pressure on journalists. Two following cases received the biggest attention: first, interference in the work of a news programme of STB TV channel, when after a phone call from an MP from the ruling party, the head of the news service has removed from air a story about the organization of protest rallies; second, a conflict in the leading English-language weekly "Kyiv Post" in April 2011. It is remarkable that during their protests against latent censorship, journalists rarely appeal to intra-editorial mechanisms of conflict settlement, instead they directly address official authorities with the request to influence media (in other words, their owners). This is an evidence of the fact that media representatives cannot enjoy generally accepted forms of journalist and editorial independence.

Despite formal guarantees of press freedom, journalists in Ukraine face unequal employment conditions, the atmosphere of threats and censorship, and lack of respect for journalists' rights on the part of government representatives and media owners.

## CHAPTER VII. INTERNATIONAL COOPERATION

Almost all large international donor organizations are active in media sphere and in fields related to information in Ukraine. In the sphere of media development, the biggest international project, in terms of funding and organization structure, is U-Media programme (coordinated by Internews Network with the financial support of the USAID; October 2008 - August 2011). U-Media programme supports such activity spheres as improving professional and ethical journalism standards, media monitoring, journalistic investigations, facilitating citizens' access to honest and unbiased news as well as new priorities for Ukraine - promoting media literacy among citizens and applying new media technologies.

A large-scale joint project of the European Union and the Council of Europe "Promoting European Standards in Ukrainian Media Sphere" has been implemented in Ukraine from September 2008 till the end of 2012. The purpose of this joint programme is to improve journalism standards in Ukraine in order to provide the society with more unbiased, balanced and full information through media. This project has contributed to Ukraine's ratification of the European Convention on Cross Border Television.

The analysis and recommendations presented by experts of the Council of Europe contributed to the adoption of the Law “On Access to Public Information”.

The Media Development Fund of the US Embassy in Ukraine actively supports the projects aimed at support of independent media in Ukraine and at strengthening journalistic standards.

New trends in the media development, such as social media and civic journalism, are supported by a special programme of the International Renaissance Foundation (a local George Soros Fund). One of the purposes of the Foundation’s media programme is refining the legislative framework regulating media.

The government programme of the Kingdom of Netherlands MATRA actively supports public initiatives aimed at presenting Ukrainian journalism and media to latest world trends. In particular, a large scale international project on introducing new media in Ukraine - MediaNext - was functioning in Ukraine in 2009-2011 with the support of this programme.

Embassy of the Federal Republic of Germany and German political funds pay considerable attention to the development of media programmes in Ukraine, including the publication of German manuals for journalists, exchange of experience, especially in print media. In 2011, Germany has supported a project aimed at legal protection of journalists.

Government programmes of Poland allocate funds for projects on international exchange of experience between Polish and Ukrainian media.

International Media Support (Denmark) and the international organization “Article 19” are actively involved in media reform in line with international standards. They support media legislation reform and monitor the adherence to standards of freedom of speech and information. These organizations also actively contribute to the projects offering legal education for journalists.

In 2010-2011, the international organizations such as PACE, “Reporters without Borders”, “Freedom House” have repeatedly pointed at threatening trends of the erosion of freedom of speech in Ukraine.

## **CHAPTER VIII. ACTIVITIES OF MEDIA NGOs**

The National Union of Journalists is the largest and oldest journalist organization in Ukraine, claiming to have 13,000 members and possessing a well-developed network in the provinces that had been formed still during Soviet times. This organization represents a journalist community of Ukraine in international journalist organizations.

Journalists' NGOs in Ukraine can be conventionally divided into the associations seeing their mission in protection of the freedom of speech and organizations which purpose is to reach the high professional level of journalism and to protect journalists' labour rights. Yet, in 2010-2011 all of them face the main challenge - constant attempts of authorities to make political influence on the work of media.

In May 2011, "Freedom House" has stated in its report that now, a year since Viktor Yanukovich was elected Ukraine's new President, the political situation in the country is unhealthy and characterized by increasing pressure on independent media from government bodies, including security services. According to "Freedom House" experts, this year media have become more controlled by political figures. Besides, the political opposition currently does not have the opportunities to comment on existing problems that it had before. Therefore, most NGOs in 2010-2011 have worked in the sphere of protecting journalists' rights and freedoms and fighting against various forms of censorship.

The difficulties encountered by journalists in their professional activities have become an impetus for the emergence of solidarity among media professionals. First of all, this applies to a movement "Stop Censorship!" that has served as a platform uniting protest efforts of both professional journalists and public organizations.

An informal movement "Stop Censorship!"<sup>51</sup> emerged in May 2010 as a reaction to attempts to introduce censorship on leading Ukrainian TV channels "1+1" and STB. Media NGOs, Institute of Mass Information, Association of Media Lawyers, and media trade unions started to provide legal and public support to the protection of journalists' rights within the framework of the movement "Stop Censorship!". Throughout the year, the movement has not only spotted, but also promptly reacted to most conflict situations related to work of the media owned by opposition politicians and to the activity of journalists who have been increasingly subject to threats, attacks and invitations to law enforcement bodies for interrogation. The movement "Stop Censorship!", membership in which was declared by 570 journalists, is the first example after 2004 (the year of the Orange Revolution) when monitoring of professional standards that was carried out by media NGOs was delivered to the media audience due to the large scale public campaign and, together with the movement of representatives of small business, has become a "brand" of protest feelings within the Ukrainian society.

Among the new initiatives in the third sector, one should emphasize the engagement of many NGOs with the problems of media education and media literacy. Journalistic NGOs actively initiate the system of spreading media literacy skills as a preventive measure for the society's protection from low-quality information that is often produced by the dishonest journalism.

<sup>51</sup> <http://stopcensorship.wordpress.com/>

The following large civil society organizations working in the media sphere in Ukraine are worth to be mentioned. The organization and online resource “Telekritika” serves as the main platform for discussing and covering issues of media development in Ukraine. An international NGO Internews Ukraine throughout its 15-year history has pioneered in the introduction of international news journalism standards in Ukraine, and at present is focused on the development of new media and the implementation of social awareness campaigns. The Academy of Ukrainian Press develops and conducts training programmes for journalists and students, and initiates the publication of fundamental academic pieces in the field of journalism theory and practice. At present, the organization is focused on the introduction of media education in the curriculum of secondary schools. The Institute of Mass Information conducts regular monitoring of violations of journalists’ rights and provides them with legal assistance. The Media Law Institute actively works on the refining of legislative framework in media sphere through law-making, organization of legal acts’ expertise and conduct of expert debates on actual media problems. The Institute for Development of Regional Press organizes regular training programmes for media professionals, partnership and internship programmes and supports information resources that are helpful to journalists. Recently the Institute was actively involved in the development of print media and online resources in the Crimea. Various types of media monitoring are conducted by the Academy of Ukrainian Press, the Equal Opportunities Associations, the Common Space (“Spilnyi Prostir”) Association, the Fund “The Community”, and Internews Ukraine. The main activity field of journalist trade unions is the protection of journalists’ rights. The associations uniting media from one sector, such as the Independent Association of Broadcasters, the Industrial Television Committee, the Ukrainian Association of Publishers of Periodical Press, and the Association “Ukraine’s Independent Regional Publishers” defend interests of media sector, organize training programmes and introduce innovation approaches.

Not only efforts of media organizations, but also activities of civil society institutes with other profiles contribute to development of the media sphere. Namely, a civic campaign “New Citizen” uniting more than 50 NGOs and individuals is currently initiating a number of projects across Ukraine that are aimed at the effective implementation of the Law of Ukraine “On Access to Public Information”.

## CHAPTER IX. JOURNALISM EDUCATION

More than 70 universities in Ukraine offer programmes to train future journalists. Annually around 1,500 young people with diplomas in journalism graduate from these higher education institutions<sup>52</sup>. To compare, only three institutions of higher education used to offer education in journalism during Soviet times. Attractiveness of the career

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<sup>52</sup> Data from the expert assessment of Prof. Valeriy Ivanov, head of PR and Advertising Department of the Institute of Journalism at the Taras Shevchenko National University of Kyiv (official data have not been published)

in journalism and development of the media market are the key reasons for the fast increase in the number of higher education establishments offering education in journalism. The high demand for the profession has boosted the supply by the universities. But the universities do not always offer quality education. Majority of the newly established universities have two common features: 1. their education services are not free of charge; 2. they lack highly professional academic and teaching staff. The introduction of programmes in journalism at such universities often pursues the only objective - to earn money on the desire of young people to become journalists. This is the reason why often a degree in journalism does not guarantee the existence of relevant skills and knowledge. In 2010, the Ministry of Education, Science, Youth and Sports declared the strengthening of liability of higher education institutions for quality of teaching and revoked a number of licenses.

Higher education in journalism was transformed to three-level model: after four years of studies, a student gets a bachelor's degree, after which he/she can choose between a one-year "specialist" programme and a two-year master's programme.

The current state of Ukrainian journalism studies is remarkable for the lack of contemporary high-quality manuals and textbooks. Some universities are still using the manuals from the Soviet epoch; some - those published in Russia (Ukrainian students understand Russian); and other - manuals written by their own professors (which are not always competent, especially in the provinces).

The relations between centres of journalistic education and the media sector - respectively, a supplier and a customer of journalists - remain an issue. These are hardly partner relations: on one hand, the media sphere accuses universities of the weak education of media specialists, on the other hand, universities point at corruption in media and the failure of most journalist materials to meet journalism standards.

The existing system of journalism education in Ukraine does not fully meet the needs of the information market. One of the reasons is the absence of a coherent state policy regarding journalism education and advanced training for journalists. Thus, such policy, in the age of new media, could have consisted in the support for technical re-equipment of universities specialised in journalism.

Many practicing journalists in Ukraine do not have even basic journalist education, but cannot devote much time on advanced training. This explains the increasing popularity of in-service specialized training programmes in journalism, organized by various NGOs. Most of these programmes are funded by foreign donor organizations and invite the professionals working within the Western education discourse as trainers. Those trainers and consultants often have better qualification than university teachers owing to their involvement in international media development process and the ability to promptly react to new technological challenges. Therefore, such trainings are often attended by university lecturers, which, in turn, contribute to improving not only

journalists' practical activity, but also the university education in journalism.

As of today, the NGO market in the education field is quite segmented, featuring the institutions that started their activities around 10 years ago.

In particular, the segment of offering advanced modern manuals in journalism is occupied by the Academy of Ukrainian Press that implements a complex publishing programme "Mass Communication Library". Within the framework of this programme, it has published Ukrainian translations of 7 manuals written by German authors. One of the innovative projects of the Academy of Ukrainian Press is the "School of Social Journalism" focused on the themes that are not well covered for the Ukrainian society.

Internews Ukraine is active in re-training and advanced training for media professionals. In 2010-2011, the organization implemented a large-scale programme focused on the opportunities opened by new media for editorial offices. Besides, Internews Ukraine actively conducts trainings in journalism standards, journalism ethics and international journalism with a special emphasis on the information related to the European Union.

The Institute for Development of Regional Press organizes similar activities for journalists from print media, in particular, regularly conducts education, training and consultative programmes for editorial offices. The Institute also introduces programmes in investigative journalism.

Therefore, main actors on the market of journalism education in Ukraine includes universities, from which graduate many young journalists, and NGOs that implement short-term programmes focused on practical needs of journalists and technological innovations.

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