



YEREVAN PRESS CLUB

**2012: SOCIAL NETWORKS AND
EUROPEAN INTEGRATION
CONTRIBUTED TO FREEDOM OF EXPRESSION**

Annual Report of Yerevan Press Club

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JANUARY 2012

ON JANUARY 10, founder of “Aravot” daily, “Aravot Oratert” LLC, sent a letter to the Court of General Jurisdiction of Lori Region informing that it refused to participate as a third party in the hearings on the lawsuits of Vano Eghiazarian, Elder of Lernapat village. This mainly concerned the three suits on the protection of honor, dignity and business reputation submitted by the Elder versus his villagers Boris Ashrafian, Fahrad Voskanian and Gevorg Melkonian. In the suits Vano Eghiazarian contested the article “Who Slanders Whom?”, published in “Aravot” on August 19, 2011. The piece reported about the August 18 protest action held against the Elder by Lernapat villagers in Yerevan in front of the RA Government. The article cited critical expressions about the Elder, made by his co-villagers Boris Ashrafian, Fahrad Voskanian and Gevorg Melkonian.

The suits were taken into consideration by the Court of General Jurisdiction of Lori Region, but assigned to different judges. Meanwhile, as the statement of “Aravot” stressed, the daily had only one evidence - the record of the interviews of the daily correspondent with the Village Elder, and with three of his villagers during the protest action in front of the RA Government. However, this circumstance was not taken into consideration by the Court, which had assigned the suits to different judges. Besides, the founder of “Aravot” noted that as of today the Village Elder has not specified the claims of the lawsuits.

On May 31, the Court of General Jurisdiction of Lori Region revoked the lawsuit of Vano Eghiazarian versus Boris Ashrafian. Later the Village Elder dropped the claims versus Fahrad Voskanian and Gevorg Melkonian.

ON JANUARY 13, the Vanadzor Court of General Jurisdiction of Lori Region continued hearing the lawsuit of Vano Eghiazarian, Elder of Lernapat village, versus **Adrineh Torosian, Vanadzor correspondent of “Hetq” online**. “Hetq” was involved in the case as a third party. The trial on the case started on November 14, 2011. The matter of the dispute was the piece by Adrineh Torosian, “The Word “Graze” in Address of Village Elder Worth 1 Mln”, published in “Hetq” on August 23, 2011. Initially, besides the demands to publish a refutation and to bring apologies, the lawsuit on the protection of honor, dignity and business reputation of the Village Elder claimed for a compensation of moral damage of 1 million AMD, about \$ 2,600 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*). Nevertheless, at the session of January 13 the plaintiff virtually abandoned his financial claims versus the respondent and demanded only 1 Luma (the smallest Armenian currency) as compensation for moral damage.

On May 29, the Court of General Jurisdiction revoked the lawsuit, binding Vano Eghiazarian to pay off the court expenses of the respondent in the amount of 150,000 AMD.

On November 12, Information Disputes Council (IDC) released an opinion on this court

case. The IDC noted that the contested piece reported about an ongoing civil case. The wordings, assessed as insult by the plaintiff and used in the article and its title, were a good-faith reproduction of public statements, made at court proceedings, thus, the journalist was exempt from responsibility for them. Referring to the decision of the European Court on Human Rights, *Jersild v. Denmark*, September 23, 1994, the IDC reminded that the journalist is free to adopt the technique of reporting. Nevertheless, there are some professional requirements for choosing a title for an article. The title should attract the readers’ attention and express the contents of the piece. In this particular case, when reading the article’s title, a reader could have the wrong impression that the main subject of the court dispute was the statement included in the title and could have an overall impression about the journalist as being biased (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

ON JANUARY 13, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit of advocate Artur Grigorian versus “**Hraparak**” daily founder, “**Hraparak Oratert**” LLC. The reason for the lawsuit became the readers’ comments to “Hraparak” article, “Citizens, Are They Victims of Disloyal Advocates?”, published on August 10, 2011 and stored on www.hraparak.am. In the readers’ comments Artur Grigorian had counted six wordings that discredited his honor and dignity, and evaluated the moral damage for each of them by 3 million AMD. Thus, the overall amount of financial claims to the newspaper made 18 mln AMD (about \$ 47,000). The lawsuit was taken into consideration on October 20, 2011; on November 8, 2011, the court put an arrest on the funds of “Hraparak” as a measure to secure the lawsuit (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*). At the session of January 13 Artur Grigorian presented a supplement to the lawsuit in which he suggested the plaintiff pay him the compensation by equal installments within several years in order not to undermine the financial situation of the plaintiff.

On March 7, the Court revoked the lawsuit as unjustified, resolving to bind Artur Grigorian with paying off the state duty of 360,000 AMD - in proportion to the financial claims. The court decision particularly stressed that “Hraparak” had no intentions to slander and insult Artur Grigorian; the comments were made by the readers, moreover they were deleted from the daily’s website upon the plaintiff’s demand. On April 5, the lawyer contested the ruling at the RA Civil Court of Appeals. On April 16, the appeal was revoked. On May 3, Artur Grigorian addressed to the RA Court of Cassation. On June 6 the Court of Cassation upheld the ruling of the second court jurisdiction.

In its May 30 opinion the Information Disputes Council stressed that the Court’s ruling contained legal positions on a number of issues, which concerned the journalistic community worldwide. This regarded the protection of information in case of the rapid advance of media technologies, social networks and online media. Welcoming the Court’s ruling, which had significantly enlarged the scope of protection of online media, the IDC also reminded about the responsibility of such media for the contents of readers’ comments. In this regard, the IDC found that the November 15, 2011 ruling of the Constitutional Court, which gave recommendations on the application of Article 1087.1 of RA Civil Code (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”) by judges, was equally applicable for the readers’ comments disseminated by online media. The IDC called upon online media: to moderate readers’ comments, in light of the common principles of the right to freedom of expression; to develop and place on their websites rules of moderation, to ensure their visibility for readers and provide for their clear and transparent application (*the IDC opinion is available*

in Armenian at <http://www.ypc.am/expert/ln/eng>).

ON JANUARY 18, Levon Barseghian, the Board Chairman of “Asparez” Journalists Club of Gyumri, sent a complaint to Grigor Amalian, Chairman of the National Commission on Television and Radio (NCTR), notifying about the excess of commercial advertising on the New Year air of the **First Channel of the Public Television of Armenia**. The reason for addressing NCTR was the monitoring results of the PTA First Channel, administered by “Asparez” on December 30-31, 2011 and January 1-2, 2012. Listing the violations revealed and attaching the tables on the study’s data, the Head of “Asparez” requested NCTR to consider the presented materials and inform about the measures taken.

It has to be noted that in 2011 “Asparez” had also monitored the air of PTA First Channel, had registered similar violations of the permissible legislative quota of advertising and had written to NCTR about this. In his reply, Grigor Amalian noted that he had addressed the Council of the Public Television and Radio company for explanations, and given their validity, he re-addressed the explanations to “Asparez” (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

The study continued in 2012. On October 9, “Asparez” presented the results of monitoring the advertising volume and its distribution on the air of PTA First Channel within May-June 2012. The study was administered under an “Asparez” project, supported by Counterpart International Armenia. According to the monitoring data, in May-June 2012 PTA First Channel violated the current legislation, particularly, it has exceeded the advertising volume. In addition, “Asparez” published the comparative analysis of the results of studies implemented within 2011-2012 (*the studies are available at “Asparez” website, <http://www.asparez.am/>*).

On October 31, the Head of “Asparez” sent a letter to RA National Assembly deputies, suggesting amendments to the draft of the RA Budget in 2013 and the RA Law “On Television and Radio”. Levon Barseghian proposed to introduce a legal ban on commercial advertising on the Public Television of Armenia, and instead - to increase the budgetary allocations to PTA in the amount of 1 billion AMD (about \$ 2,440,000). According to “Asparez”, this ban would annually make available 640-670 hours of PTA’s airtime, which could be used in the public interest - for educational, cultural, and other purposes. The given initiative was based on the results of the monitoring of the volume and distribution of advertising on PTA First Channel, being implemented by “Asparez” in 2011-2012, as well as on the annual reports of the Public TV and Radio company.

On December 14, “Asparez” informed that it had received a reply from the RA National Assembly Standing Committee on Science, Education, Culture, Youth and Sport. The Committee had answered to the suggestion of “Asparez” to introduce a legal ban on commercial advertising on the Public Television of Armenia. The letter, signed by Artak Davtian, Chairman of the specialized parliamentary Committee, particularly, noted that “the presented data (by “Asparez”, *Ed. Note*) were undoubtedly disturbing, however the National Assembly was not competent and cannot take any specific steps, except for taking these data into consideration”.

ON JANUARY 20, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan took into consideration the lawsuit of Yuri Mnatsakanian versus National Institute of Health named after Academician Suren

Avdalbekian and Vigen Shahinian, Head of the Institute's Administration. **The founder of the News.am, “News.am” LLC**, was involved in the case as a third party. The suit disputed the article “40-100 Employees of the National Institute of Health Care Will Join the Ranks of Unemployed”, published in News.am on December 26, 2011. The plaintiff demanded from the respondents to make public apologies, compensate the moral damage, caused by insult, and pay off the court expenses. The hearings started on April 5; on September 4 the Court revoked the lawsuit.

ON JANUARY 22, the international **Human Rights Watch** organization released its **annual report on human rights practices in over 90 countries of the world in 2011**.

In report section, dealing with Armenia, the situation with media freedom was presented. In May 2010 Armenia decriminalized libel and insult. However, amendments to the RA Civil Code introduced high monetary fines for defamation and led to an increase in lawsuits against newspapers, particularly by public officials, the Human Rights Watch noted. “In some cases the courts’ disproportionately large damage awards threaten the survival of newspapers”, the report stressed. As an example, Human Rights Watch cited some of the sensational defamation cases: three RA National Assembly MPs Samvel Aleksanian, Levon Sargsian and Ruben Hayrapetian versus “Haykakan Zhamanak” daily; family of Second President of Armenia Robert Kocharian versus “Zhamanak” daily; the very Robert Kocharian versus “Hraparak” daily; RA NA deputy Tigran Arzakantsian versus “Yerkir” daily.

Lack of media pluralism remained a problem, Human Rights Watch said. In December 2010 National Commission on Television and Radio denied “A1+” TV company a broadcast license for the 13th time, despite the June 17, 2008 European Court of Human Rights ruling, recognizing the license denials as violation of Article 10 of European Convention on Protection of Human Rights and Fundamental Freedoms. “ALM” TV and “GALA” TV of Gyumri were also refused of a digital broadcast license. According to Human Rights Watch, “since 2007 ‘GALA’ has been subject to apparently politically motivated court cases and harassment by state agencies, seemingly in retaliation for the station’s coverage of opposition party activities”.

ON JANUARY 24, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit of Director of the Armenia National Art Gallery Paravon (Pharaoh) Mirzoyan versus **the founder of “Chorrord Inknishkhanutiun” daily, “Trespassers W.” LLC**, and artist Sergey Gasparian. The reason for the lawsuit became the article “To Know Pharaoh”, published in “Chorrord Inknishkhanutiun” on April 9, 2011. The piece contained unpleasant expressions by Sergey Gasparian, critically assessing the Head of the National Art Gallery Paravon Mirzoyan. The plaintiff demanded to refute the information discrediting his reputation, compensate the moral damage made to his honor and dignity of 3 million AMD (about \$ 7,900), as well as to pay off the court expenses of 360,000 AMD (about \$ 950). On June 26, 2011, the case was taken into consideration (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

It has to be noted that the conflict was considered by the Information Disputes Council on October 28, 2011 and by the Media Ethics Observatory (MEO) on December 25, 2011. It was also discussed on “Press Club” talk show, broadcasted on “Yerkir Media” TV on November 11, 2011 (see <http://www.youtube.com/watch?v=z1353Pp4bi4>). According to the IDC, the conflict was more an ethical matter than a legal one, therefore it should have

been set out of court, particularly through the Media Ethics Observatory (see <http://ypc.am/expert/ln/en> and <http://www.ypc.am/bulletin/ln/en/t/45240>). The Media Ethics Observatory, in its turn, concluded that the conflict between Paravon Mirzoyan and the daily “is a matter of journalistic ethics” and may be settled “through publication in ‘Chorrord Inknishkhanutiun’ of the refutation or reply text provided by Paravon Mirzoyan, or publication of the MEO judgment in the daily” (*the MEO judgment is available in Armenian at http://www.ypc.am/self_regul/ln/en*).

On October 2, the Court dismissed the suit on the absence of grounds. Paravon Mirzoyan contested this ruling at the upper court jurisdiction. On November 13, the RA Civil Court of Appeals upheld the ruling of the first instance court.

ON JANUARY 25, “Reporters without Borders” international organization released its **tenth annual Worldwide Press Freedom Index**. The study was conducted in 179 countries and reflects the situation around media freedom within December 1, 2010 and November 30, 2011. In comparison with 2010 (101-102), in 2011 Armenia’s press freedom index rose 24 places (77). Nevertheless, according to RSF, the Armenia “index seems spectacular, but in fact it has just gone back to where it was three years ago, before the brutal crackdown after the disputed 2008 elections”. The Armenian media “are nonetheless subject to constant judicial harassment and the size of the damages demanded in lawsuits is intimidating. Self-regulation is a major challenge that still needs to be tackled”, the study of “Reporters without Borders” mentioned.

ON JANUARY 30, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan released the ruling **on the lawsuit of the construction company “Glendale Hills” versus founder and publisher of “Zhamanak” daily**, “Skizb Media Kentron” LLC. The reason of the suit was the piece “‘Glendale Hills’ Offered 1000 Dollars for Silence”, published in “Zhamanak” on August 26, 2010. The article informed that in August 2010 there were collapses in a newly built house in Gyumri, and the building contractor, “Glendale Hills”, offered the tenants a financial compensation, promised to restore the damages, if only the media did not know about the incident. “Glendale Hills” demanded from “Zhamanak” founder to refute the information as contained in the piece that discredit its business reputation, compensate the damage caused by defamation of 2 million AMD (about \$ 5,400) and cover the court expenses of 500,000 AMD. The suit was submitted to consideration on September 24, 2010; the preliminary hearings started on November 26, 2010 and ended on July 8, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

The Court partially secured the lawsuit obliging “Zhamanak” daily to publish a refutation, and reduced the claims of the plaintiff towards the daily founder up to 510,000 AMD (about \$ 1,400): 200,000 - compensation for damage caused by libel, 300,000 - court expenses; 10,000 - state duty for filing the court.

On March 2, the founder of “Zhamanak” contested this ruling at RA Civil Court of Appeals. On June 14, Civil Court of Appeals dismissed the complaint. On August 1, the RA Court of Cassation upheld the decisions of the lower court jurisdictions.

In its July 26 opinion the Information Disputes Council stressed: even though the contested information was justified by the public significance of the theme, it was not presented in good faith and in a balanced manner; stemming from the public interest towards the issue, it would be appropriate for the court to observe what measures the media had undertaken for revealing the truthfulness and validity of the information, and

whether the article was premeditated; publishing a refutation would be quite sufficient to compensate the damage caused (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/In/eng>*).

ON JANUARY 31, RA Administrative Court dismissed for absence of grounds the lawsuit of **Nikol Pashinian, Chief Editor of “Haykakan Zhamanak” daily**, versus “Kosh” penitentiary. The plaintiff demanded to lift the disciplinary penalty, imposed on him on November 16, 2010. On January 19, 2010, Nikol Pashinian was found guilty in mass riots of March 1, 2008 in Yerevan, and sentenced to seven years of imprisonment. On March 9, 2010 the RA Criminal Court of Appeals, by applying an amnesty on Nikol Pashinian, cut down his unexpired term of imprisonment by half. After the incident that occurred in the early morning of November 11, 2010 in the general prison cell of “Kosh” penitentiary Nikol Pashinian was accompanied to the isolation ward on November 16, 2010. Nikol Pashinian contested the “Kosh” penitentiary’s decision on transferring him to the isolation ward. The court hearings started on May 6, 2011. It has to be also noted that on May 27, 2011 Nikol Pashinian was pardoned and released (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/In/eng*).

ON JANUARY 31, the Court of General Jurisdiction of Ajapnyak and Davitashen Administrative Districts of Yerevan received the lawsuit of Daniel Ionnisian, Bayandur Poghosian and Hasmik Simonian versus “Mek Azg” faction of organizations. The reason of the lawsuit on the protection of honor, dignity and business reputation was the information about Daniel Ionnisian, Bayandur Poghosian and Hasmik Simonian, published on December 28, 2011 on the **Facebook page of “Mek Azg”**. The plaintiffs assessed the information as libel and insult, and demanded public apologies, publication of a refutation, as well as a compensation of 10,050 AMD (about \$ 25) from which 50 AMD - as moral loss compensation and 10,000 AMD - court expenses.

On June 28, the Court partially secured the lawsuit, obliging “Mek Azg” to bring public apologies to Daniel Ionnisian and Bayandur Poghosian on its Facebook page and pay off to each 10 AMD as moral loss compensation. The Court rejected all the other demands.

The dispute contesting information disseminated through social network was the first in the Armenian judicial practice and the court ruling was precedent-setting. In its September 7 opinion the Information Disputes Council highlighted this fact and welcomed the Court’s position, which had stated that the information disseminated through social network, in terms of both legal and social consequences, is “available to all”, i.e., is public.

Amongst statements under question, the Court has considered defamatory only the words “fool” and “ideological bastard”. The Court’s assessment was based on its inner conviction. Taking this into account, IDC abstained from assessing whether the statements were insulting and defamatory in this context. The Court found the other disputed statements neither insulting nor defamatory, given their abstract nature. At the same time, the Court highlighted that dissemination of information on the belonging to a party or to a nation, defending someone, holding ideas, even if this information did not correspondent to reality, could damage a person’s honor, dignity or business reputation. According to IDC, this position ensured wide scopes of political speech. The IDC also stressed the reasonable approach of the Court regarding the size of material compensation.

Considering the precedent-setting value of the present case and that it was the first one concerning the right to free expression on Internet, IDC found that it was time for broad discussions on issues pertaining to the adoption and application of self-regulation norms

on Armenian Internet, and invited all active users to debate (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

FEBRUARY 2012

ON FEBRUARY 2, RA Administrative Court of Appeals secured the complaint of **Committee to Protect Freedom of Expression** regarding the ruling of court of first instance on CPFE’s lawsuit versus **National Commission on Television and Radio**. On February 21, 2011, the CPFE had inquired the NCTR to provide the application packages of the TV companies taking part in the broadcast licensing competitions, which were summed up in December 2010. The NCTR had answered that the information requested could be provided, with the exception of those documents that contained commercial secret. On April 11, 2011, CPFE brought a suit before the RA Administrative Court demanding to bind NCTR with fully providing the inquired information. On September 27, 2011, the Court revoked the lawsuit on the grounds of Part 1 of Clause 1 of Article 8 of RA Law “On Freedom of Information”, according to which the provision of information may be denied if it contains state, official, bank, commercial secret (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*).

The Administrative Court of Appeals canceled this ruling as ungrounded and redirected the lawsuit for reconsideration by the same Court. As the February 2, 2012 judgment of the Administrative Court of Appeals noted the court of first instance did not demand NCTR to provide facts that the information requested by the plaintiff contained a commercial secret.

On August 3, 2012, the Administrative Court reconsidered the case and partially secured the claim. It obliged NCTR to provide the CPFE with personal data (CVs) of the TV companies’ staff and revoked the plaintiff’s demand on the provision of the TV companies’ rebroadcasting contracts. On September 3, 2012, the CPFE contested this decision at the Administrative Court of Appeals, insisting to provide it with information requested in full. On December 13, the Administrative Court of Appeals revoked the complaint of the CPFE, which intended to contest this at the RA Court of Cassation. The complaint was submitted to the Court of Cassation in the beginning of 2013, which subsequently dismissed it.

ON FEBRUARY 3, at about 11.00, **the Managing Editor of “Haykakan Zhamanak” daily Hayk Gevorgian** was taken into custody to “Nubarashen” penitentiary. He was charged with Articles 242 (“Violation of the traffic safety rules and exploitation of vehicles”) and 244 (“Leaving the scene of an accident”) of RA Criminal Code.

At the press conference, organized in the evening of the same day, the RA Police provided explanations on the arrest of “Haykakan Zhamanak” representative. According to Arsen Ayyazian, Head of the Chief Investigative Department of RA Police, on January 13, 2012 at about 17.30 in Yerevan Hayk Gevorgian, driving the newspaper’s car, ran down the pedestrian Ashot Frangulian and left the scene of accident. According to the Police representative, Ashot Frangulian got to “Surb Grigor Lusavorich” Medical Center by himself, where he received medical assistance; injuries of average gravity were recorded. Criminal proceedings were instituted upon the complaint of Ashot Frangulian on January 20; Hayk Gevorgian was summoned to the investigator, but did not appear, the police representative noted. As Arsen Ayyazian informed, on January 23 it was ordered to forcibly summon Hayk Gevorgian, however after the investigative operations the journalists was not found. Hayk Gevorgian was returned of wanted, and arrest was selected as a measure of preventive punishment, the Police representative stressed.

Chief Editor of “Haykakan Zhamanak” Nikol Pashinian linked the arrest of Hayk Gevorgian to his professional activities, particularly to his articles, which criticized the Head of RA Police Vova Gasparian, and were published in the daily in January.

On February 4, Yerevan Press Club and Committee to Protect Freedom of Expression made a statement, considering the preventive measure of punishment of Hayk Gevorgian as “lacking of sufficient legal basis”. The journalistic organizations considered not convincing the police’s arguments on declaring Hayk Gevorgian wanted: all that time, during ten days, the journalist continued carrying out his professional duties for what he even visited state bodies, including the government. Moreover, those days he communicated with the investigator, trying to find out in what capacity he was being called to police. “There is an impression that the selection of arrest as a preventive measure of punishment was made under some intentionally simulated conditions”, emphasized the statement authors, urging to change the measure, release Hayk Gevorgian and undertake unbiased and transparent investigation of the incident. Signatories also called the authorities “to take effective measures for excluding baseless harassment, accusation and impediment against journalists and media”.

On February 4, RA Police disseminated video materials with a more detailed explanation on Hayk Gevorgian’s arrest. According to “Haykakan Zhamanak” Head Nikol Pashinian, the police materials were invented.

On February 6, the supervising prosecutor changed the preventive measure of punishment towards Hayk Gevorgian by a written undertaking. The journalist was released in the afternoon.

On February 7, at a press conference Hayk Gevorgian told about the details of the January 13 incident. The journalist particularly noted that he did not manage to drive out from the parking lot of the RA Ministry of Economics (where he was taking an interview), as there was a stranger standing behind the car. The man would not move away and acted awkwardly. Finally when Hayk Gevorgian threatened to call the police, the man stepped aside. The journalist emphasized that he was driving out very slowly, looking at the rear-view mirror all the time. The journalists stated that if he had run someone down, he would never leave the scene without offering assistance. Hayk Gevorgian assessed the happenings as a purposive action against him, opposition journalist.

On July 2, Hayk Gevorgian received the decision of the RA Police Department of Investigation on Road Traffic Accidents regarding the withdrawal of the criminal proceedings, instituted against him with charges of running down. As the decision mentioned, the inquiry was dropped due to absence of corpus delicti.

Meanwhile, the journalist contested at the RA Criminal Court of Appeals the decision on his arrest, rendered by the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan. On March 13, the second court jurisdiction revoked the appeal. In its turn, on May 7, RA Court of Cassation upheld the ruling of the Court of Appeals.

Hayk Gevorgian also appealed the decision of the RA Police on dismissing the criminal case, since according to the journalist the charges were framed-up. “I would be delighted if the case was withdrawn due to absence of the crime per se, but not to the corpus delicti”, stressed the Managing Editor of “Haykakan Zhamanak”. On October 8, RA Criminal Court

of Appeals revoked the complaint based on the fact that the complainant had missed the one-month term for filling the lawsuit.

ON FEBRUARY 6, the RA Administrative Court secured the lawsuit of the **National Commission on Television and Radio (NCTR)** against the **founder of “ArpaInform” regional TV company, “ArpaInform” LLC** (Vayots Dzor). On December 22, 2011, NCTR had filed the RA Administrative Court of Vayots Dzor demanding to cancel the broadcast license granted to “ArpaInform” LLC on January 10, 2011, since the company has not been broadcasting throughout six months. The lawsuit was submitted to consideration on January 9, 2012. At the February 6 session the Administrative Court made a ruling on nullifying the license No.155.

Due to the abolition of the license of “ArpaInform” LLC, on June 4 the NCTR announced digital broadcast licensing competition for TV companies of general profile in Vayots Dzor region. The competition applications were to be submitted through August 28 - September 7, 2012; however no company applied for the vacant frequency in Vayots Dzor. On September 11, the competition was annulled due to absence of any application.

ON FEBRUARY 9, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit of RA citizen Gurgen Aghajanian versus **“Zhoghovurd” founder, “Editorial Office of ‘Zhoghovurd’ Newspaper” LLC**. On August 6, 2011 the daily received a letter in an envelope indicating the name of the sender, Gurgen Aghajanian. The letter was sent as a receipt notification, where the return address was that of the Department of the State Property Management of the RA Government. At the same time, the letter was not signed. It told about the abuse of office by Karineh Kirakosian, ex-Head of the State Property Management Department, member of Council of Republican Party of Armenia, and the former Deputy Head of Department Ashot Markosian. The newspaper addressed Karineh Kirakosian for comments. She assumed that the information brought in the letter was untrue and the author did it in revenge of his dismissal of years ago. On August 9, 2011 “Zhoghovurd” published an article titled "Galust's Son Is Required to", which included the letter's information as well as Karineh Kirakosian's response. The article started with the words: “‘Zhoghovurd’ received a letter from Gurgen Aghajanian (...)”. The next day Gurgen Aghajanian declared that he had not written any letters and demanded to publish his text of refutation. “Zhoghovurd” denied publishing it for the text was not but a self-praise of Gurgen Aghajanian and could not be considered as a proper reply. On August 29, 2011 the Court submitted into consideration the suit of Gurgen Aghajanian versus “Zhoghovurd” founder (Karineh Kirakosian and Ashot Markosian were third parties in the case). The plaintiff required the newspaper publish a refutation and compensate the moral loss caused by slander in the amount of 500,000 AMD, pay off the attorney expenses - 300,000 AMD and state duty of filling the court - 4,000 AMD. The overall amount of financial claims made 804,000 AMD (about \$ 2,000).

In its turn, “Zhoghovurd” daily had addressed the IDC requesting an opinion on this case. Before the court hearings on the case had started, on February 8, the IDC released an opinion, which stated that from a legal perspective the daily had the right to publish the content of the controversial letter. However, from a professional ethics perspective it would have been preferable to publish the letter without mentioning the name of the author or make a reserve that the daily was not sure who the real author was, because it was not possible to verify the sender's identity. Because this was not done, after publishing the article the daily should have granted Gurgen Aghajanian with a chance for a refutation or a response, as much as it regards the author of the letter, the IDC stressed. The IDC also

concluded that the plaintiff's financial demand for moral loss compensation was not proportional (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/ln/eng>*).

As of end-2012, the hearings on the case continued.

ON FEBRUARY 9, RA Administrative Court of Appeals upheld the October 3, 2011 RA Administrative Court ruling on the lawsuit of **the founder of “A1+” TV company, “Meltex” LLC**, versus **National Commission on Television and Radio (NCTR)**. On February 21, 2011, “Meltex” disputed the results of digital broadcast licensing competition No.11. The founders of “A1+” and “ArmNews” TV companies were opponents in this competition (the latter became the winner). The plaintiff demanded to restore its violated rights and nullify the NCTR decision on competition No.11. On October 3, 2011, Administrative Court revoked the lawsuit reasoning that the competition was held in compliance with the legislation, therefore the rights of the plaintiff were not violated. On November 2, “Meltex” appealed the ruling at the upper court jurisdiction (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

On March 23, “A1+” founder contested the decision of the Administrative Court of Appeals at the RA Court of Cassation, which decided to uphold the decisions of the lower court instances on March 28.

ON FEBRUARY 15, RA Administrative Court released the decision on the case of 14 students of the Law Faculty of Yerevan State University versus **National Commission on Television and Radio (NCTR)**. The reason for going into law was the results of monitoring some Armenian TV channels, implemented by the students in 2011. The study had revealed violations of advertising legislation, particularly by “Armenia” TV channel. The **founder of “Armenia” TV channel, “Armenia TV” CJSC**, was involved in the cases as a third party. The plaintiffs demanded to uphold the inaction of NCTR as unlawful, oblige it to make an official warning to the “Armenia” founder, as well as prohibit the broadcasting of unfair advertising by the TV channel. The lawsuit was taken into consideration by the Administrative Court on May 18, 2011, hearings started on July 12, 2011.

At its February 15, 2012 session the Court fully secured the lawsuit.

ON FEBRUARY 17, **Media Ethics Observatory** rendered a judgment on the complaint of Anna Simonian regarding the photo story by **Gagik Shamshian** “Reportedly, the 38-Years Old Young Man Shot Himself Death”, placed on “**Aravot**” website (<http://www.aravot.am/>) on February 7, 2012. The complaint became the discussion theme of February 17 “Press Club” TV cycle (see http://www.youtube.com/watch?feature=player_embedded&v=nse1vvriYyE).

The MEO judgment noted that the identification in the piece of name and surname of the person, who had committed suicide, was not acceptable and ran counter Point 4.3 of Code of Conduct of Media Representatives: “to be especially tactful when the sources of information or the heroes of publications are (...) persons, who have committed suicide”; as well as “when collecting information about people that have suffered tragedy or sorrow, when taking interviews or photos of such people, or when broadcasting video or audio materials about them, to be tactful towards them”.

MEO considered that Point 4.4. was also violated during the selection of photos for the

story. In this regard, MEO reminded about the necessity to be more delicate while reporting on tragic events. MEO called the media who had joined the self-regulation initiative to comply with requirements of Point 4.5 of the Code of Conduct: “To respect the presumption of innocence: when publishing the names of crime suspects before the trial, to consider the public need for doing so - striking a balance between the presumption of innocence, the right of crime suspects to fair trial, and the right of the public to be informed.”

MEO suggested “Aravot” daily, which had published the photo story, be more careful while covering tragic events and selecting materials and photos on them (*the MEO judgment is available in Armenian at http://www.ypc.am/self_regul/ln/en*).

On February 29, the MEO judgment was stored on “Aravot” website (the daily is a member of the media self-regulation initiative).

ON FEBRUARY 18, “Hraparak” daily published the text of amicable agreement, concluded between its **founder “Hraparak Oratert” LLC** and Second President of Armenia Robert Kocharian. The amicable agreement was approved on February 15 by the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan regarding the lawsuit of Robert Kocharian versus “Hraparak” founder. The reason for going to law became the piece, “Do They Destroy Kocharian, And Explain to Tsarukian?”, published in “Hraparak” on February 12, 2011. The plaintiff demanded to refute the information appeared in “Hraparak” that discredited his honor and dignity, to compensate for the damage caused by defamation and libel, as well as recompense the court expenses. The total amount of the financial claims made 6 millions AMD (about \$ 16,200), half of which were the court expenses. Court hearings on the case started on May 10, 2011 and continued in 2012 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

Pursuant to the February 15 amicable agreement, the respondent committed to publish a refutation within three days, while the plaintiff - turn down his financial claims towards the daily founder. On February 18, “Hraparak” published a refutation, in which the information of the piece “Do They Destroy Kocharian, And Explain to Tsarukian?” was acknowledged untrue and discrediting the honor, dignity and reputation of Robert Kocharian. The daily also brought apologies for the inaccuracies and offences, made in the piece.

ON FEBRUARY 27, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan revoked the lawsuit of **Hayk Babukhanian, Chairman of the Editorial Council of “Iravunk” newspaper,** and **“Iravunk” founder, “Iravunk Media” LLC,** versus **founder of Report.am news portal, “Khmbagir” LLC,** and **Report.am observer Edik Andreasian.** The subject matter of the case was the September 1, 2010 piece of Report.am “The Right of ‘Iravunk’ on the Edge of Hayk Babukhanian’s Sword”. Plaintiffs demanded to refute the discrediting information, as contained in the piece, as well as exact from each respondent 3 million AMD (about \$ 8,000) as moral damage compensation, caused by libel and insult. This lawsuit was submitted to consideration on November 22, 2010; the hearings started on January 27, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

The Court justified the declination of the lawsuit, particularly for violation of Point 13 of Article 1087.1 of RA Civil Code (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”) by the plaintiffs, setting the term of lodging a

defamation suit for one month. Besides, the Court bound the plaintiffs with paying the state duty for filing the court of 236,000 AMD in proportion to financial claims.

On May 31, the RA Civil Court of Appeals upheld the decision of the Court of General Jurisdiction. The Civil Court of Appeals, in its turn, held the complaint unjustified and bound the plaintiffs to pay off the state duty for filing the Court of Appeals in the amount of 390,000 AMD (again proportional to financial claims). On July 25 RA Court of Cassation upheld the rulings of the lower court jurisdictions.

In its September 18 opinion the Information Disputes Council noted that the rejection of the suit due to the missed term for civil action, as well as other analogous rulings on defamation cases were an evidence of a consistent practice being developed in Armenia: the courts provided uniform interpretation on this legislative requirement. Besides, the first and second court instances had bound “Iravunk” with compensating the state duty, which was proportionate to financial claims. IDC found that such an approach in defamation cases would decrease legal complaints with unjustified and overestimated financial demands (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/In/eng>*).

The same Court of General Jurisdiction considered another lawsuit by Hayk Babukhanian versus Report.am founder, and its observer Edik Andreasian (*see below*).

ON FEBRUARY 29, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit of Yerevan State University and Ara Gabuzian, Head of YSU Criminal Law Department, versus “**Banadzev**” LLC (independent TV program and film production company) and Gyumri resident Sirekan Yeghiazarian. The matter of the lawsuit on protection of honor, dignity and business reputation was the plot “Jurist-Violator” on a program of “Akanates” (“Eyewitness”) TV cycle, broadcast on the air of First Channel of Public Television of Armenia on May 28, 2011 (the cycle was produced by “Banadzev” LLC for PTA First Channel). In the plot, Sirekan Yeghiazarian, applicant of graduate studies of YSU Law Faculty, told about his story, when he tried to appeal the unsatisfactory grade at the YSU and RA Ministry of Education and Science. The story was supported by the comments of legal expert Sona Harutiunian. The plaintiffs demanded “Banadzev” LLC and Sirekan Eghiazarian to bring public apologies and refute the untrue information on the same program. The suit was taken into consideration on June 27, 2011. Hearings should have started on September 2011, but were delayed for some reasons.

At the session of February 29 plaintiffs presented a supplement to the suit. Public apologies were now required not only from “Banadzev” LLC and Sirekan Yeghiazarian, but from Sona Harutiunian. Besides, as “Banadzev” LLC did not cooperate anymore with PTA First Channel, the apologies and refutations should have been made on a program of First Channel; the court ruling on the case should have been stored on <http://akanates.banadzev.com>.

On July 30, the Court of General Jurisdiction partially secured the lawsuit, revoking only the claims towards Sona Harutiunian. Meanwhile, the Court acknowledged the Yerevan State University as an improper plaintiff, since it was a legal entity and could not demand protection of honor and dignity. On September 5, the YSU appealed this ruling. On November 23, the RA Civil Court of Appeals secured this complaint.

In its September 5 opinion the Information Disputes Council stated that the contested plot

violated the principles of pluralism of opinions and balanced information. Besides, even before going to court the parties had agreed about the day and time of publishing the refutation, however, not only the convened date was breached but also the published refutation text was not in line with the requirements of Article 8 of RA Law “On Mass Communication”. This became the reason of the lawsuit. The IDC welcomed the absence of financial claims by the plaintiff - not only in this case but also in defamation disputes in general (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

MARCH 2012

ON MARCH 2, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan held hearings on the lawsuit of **Freedom of Information Center** versus universal credit company “Small and Medium Investments” CJSC (“SMB Investments”). On November 11, 2011 “Ankakh” newspaper had inquired “SMB Investments” to provide information on legal and physical entities that received loans from state funds, as well as their amount. “SMB Investments” denied providing the information, alleging a commercial secret. “Ankakh” addressed FOI Center for support, which, in its turn, on November 22, 2011 sent the same inquiry to “SMB Investments”. The credit company answered to the request partially, referring again to a commercial secret. On December 23, 2011, FOI Center went to law. The plaintiff demanded to bind the respondent with providing the requested information fully and impose a fine on the head of “SMB Investments” in the amount of 50,000 AMD (about \$ 130).

On March 15, the Court of General Jurisdiction revoked the suit of Freedom of Information Center.

ON MARCH 7, Benik Harutiunian, Director of RA Balneology and Physical Medicine Research Center, dropped his lawsuit versus **founder of “Zhoghovurd” daily, “Editorial Office of ‘Zhoghovurd’ Daily” LLC**. “Zhoghovurd” reported about this in its March 13 piece. The piece presented the information, disseminated on March 7, which told that the Press Secretary of RA Minister of Defense David Karapetian had recalled on behalf of Benik Harutiunian (who was also Advisor to RA Minister of Defense, **Ed. Note**) the lawsuit. The withdrawal was conditioned by the need of fostering media as a pillar of democracy, “Zhoghovurd” stressed.

The reason for filing the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan became the piece “The Doctor’s Adventures in the Goldfields”, published in “Zhoghovurd” on September 9, 2011. Benik Harutiunian demanded to oblige the newspaper to refute the information discrediting his honor and dignity, and pay him off 2,2 mln AMD (about \$ 5,800). The court hearings started on November 29, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*).

ON MARCH 7, Yerevan Press Club, Committee to Protect Freedom of Expression, Internews Media Support NGO, “Asparez” Journalists Club and Media Diversity Institute-Armenia made a statement regarding the **Journalists’ Accreditation Procedure at the Central Electoral Commission** (was approved on January 31, 2012).

By reminding that the accreditation of journalists was ongoing at that moment, the media NGOs called the CEC to revise some provisions of the Procedure. Particularly, the media community was concerned with the two reasons for denying or terminating accreditation,

prescribed in Articles 9 and 11 of the Procedure: if a journalist “has disseminated untrue information about the activities of the electoral commissions (official figures)” or “was condemned for premeditated crime and his/her convictions are not expired or expunged”.

“These grounds for denial or termination of accreditation are not acceptable for the following reasons:

- The given Procedure sets such restrictions of rights, which must be envisioned only in a law and not in a bylaw;
- The rights of the media imply an opportunity for an independent and free selection of those journalists who will report on electoral processes. This right should not be anyhow restricted, including by the CEC;
- Given that in the upcoming months the major part of media representatives will be engaged in the elections coverage, the Procedure virtually might become a ban on profession: depriving a journalist from accreditation for his/her “past sins” is unacceptable for a country striving for democratic values;
- As a ground for denial or termination of accreditation the Procedure stipulates the dissemination of untrue information about the activities of the electoral commissions. CEC indirectly defines some enhanced guarantees for protecting itself from criticism. This provision is of more concern given the strongly criticized court practice, formed after the 2010 RA Civil Code amendments to legislation on libel and insult;
- Regardless of whether these provisions are implemented, the existence of such restrictions in the Procedure is already an instrument of pressure and may unduly curtail the activities of journalists, especially during the elections - a vital period for the country”, the statement of five journalistic organizations stressed (*the statement of March 7, 2012 is available at <http://www.ypc.am/expert/ln/en>*).

At the March 15 session the CEC held the above-mentioned provisions invalid. The new text of the Procedure was sent to RA Ministry of Justice for official registration. At the same time, when talking with YPC a representative of the CEC noted that none of the journalists was denied accreditation.

ON MARCH 12, the amendments’ package to **RA Law “On Television and Radio”** was submitted to circulation at RA National Assembly. The draft law “On Introducing Amendments and Supplements to RA Law ‘On Television and Radio’” was developed by the working group on reforming the broadcast legislation, regulating the process of switching from analogue to digital broadcast in Armenia, formed by the RA Human Rights Defender in 2010. On May 31, 2011, the document was submitted to the parliament, and the working group stopped its activities. On June 15, 2011, the heads of the three media NGO-members of the group, Nouneh Sarkissian, Managing Director of Internews, YPC President Boris Navasardian and Arzuman Harutiunian, President of Audio-Visual Reporters Association, released a statement. The latter noted that the version of the draft, presented to the parliament, was imperfect, and the shutdown of the WG activities was premature: “The draft contains a number of important clauses that were not properly addressed and still require a thorough discussion and analysis. Suggestions and recommendations provided by the experts, including the feedback from the Council of Europe and OSCE, were not considered in full and completely. Such a situation questions the initial key objective of our activities, which is to contribute to the adoption of a perfectly

worked out law by the RA National Assembly.” The statement authors emphasized that they would continue their activities over the improvement of the draft and they would submit it to the RA National Assembly in a separate package. In this regard, the heads of the three media NGOs addressed to the RA NA Standing Committee on Science, Education, Culture, Youth and Sport requesting to postpone any possible discussion on the draft. On November 4, 2011 the revised amendments to the Broadcast Law were presented to the Standing Committee, where on December 15, 2011 the draft was discussed (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

As of end-2012, the draft law has not been included in the agenda of the National Assembly.

ON MARCH 12, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan revoked the lawsuit of **Hayk Babukhanian, Chairman of the Editorial Council of “Iravunk” newspaper**, versus **founder of Report.am news portal, “Khmbagir” LLC, and Report.am observer Edik Andreasian**. Hayk Babukhanian contested the article “When Forcing the Unpromptable” (stored on Report.am on March 25, 2011) and its’ readers comments. Along with a refutation on the information, discrediting honor, dignity and business reputation, Hayk Babukhanian demanded to compensate the moral damage of 1 million AMD (more than \$ 2,500) and the court expenses. The court hearings on the case started on June 15, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

The Court ruling, released on March 12, 2012, assessed the lawsuit of Hayk Babukhanian as unjustified. Thus, this made the second case, which Hayk Babukhanian lost to Report.am (*see above*).

In its October 10 opinion the Information Disputes Council reminded that when admitting the lawsuit, the Court had satisfied the plaintiff’s motion on banning the respondent to store any defamatory publications or comments about Hayk Babukhanian on Report.am. According to the IDC, freedom of speech, enshrined in the European Convention on the Protection of Human Rights and Fundamental Freedoms and RA Constitution, may be limited only by law and in cases prescribed by it. Hence, by satisfying the motion, the Court had actually practiced censorship, and thus restricted the freedom of speech. The IDC noted that the issues regarding reader comments had already been considered in another IDC conclusion of May 30, 2012 on the lawsuit of advocate Artur Grigorian versus founder of “Hraparak” daily, and its assessments equally applied to this case (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

ON MARCH 13, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit of the Armenian Word of Life Religious Community of Christian Evangelic Church and its Head, Senior Pastor Artur Simonian versus **“Iravunk Media” LLC, founder of “Iravunk-Investigation” and “Argumenti Nedeli v Armenii” weeklies**. The matter of the lawsuit on protection of honor, dignity and business reputation became the article and its collage that spoke negatively about the Armenian Word of Life and the Senior Pastor. The piece was published in the weekly supplement “Iravunk Investigation” of October 19-25, 2011 and was later reprinted in “Argumenti Nedeli v Armenii”. The plaintiffs demanded to bind the respondent to publish a refutation and to bring apologies in both newspapers. The lawsuit was taken into consideration on November 23, 2011.

The attorney of the Armenian Word of Life had applied to the Council on Information Disputes, requesting to provide an expert opinion on the suit.

In its May 11, 2012 opinion the Information Disputes Council noted that a number of the disputed judgments did not have factual data. In this regard, they could not be assessed as a fair comment. Moreover, the general context of the articles and the continuous and persistent use of the word “sect” therein gave features of religious intolerance to the pieces (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/ln/eng>*).

On July 31, the Court of General Jurisdiction revoked the lawsuit.

On August 15, due to the dismissal of the suit, Information Disputes Council made a statement in which it highlighted: the Court had not paid attention to the fact that the articles were based purely on third party public statement, and due journalistic investigation had not been conducted. Although such a method of reporting did not contradict the formal requirements of the law, however it was challenging from the perspective of journalism ethics. Any journalist must be cautious, when the report concerns the social values in the society, including the freedom of religious belief, and he/she must carry out his/her professional duty of disseminating correct and impartial information, the IDC statement stressed (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

On September 29, the Word of Life and its Chairman contested the ruling of the Court of General Jurisdiction. The hearings at the RA Civil Court of Appeals were held on October 25. On November 8, the Civil Court of Appeals upheld the ruling of the Court of General Jurisdiction. At the same time, the Court of Appeals revised the size of the respondent’s lawyer costs to be paid off by the plaintiffs. Initially, the court of first instance had defined them in the amount of 300,000 AMD (about \$ 730), but the Court of Appeals considered 100,00 AMD as a more reasonable sum. On December 6, the plaintiffs addressed the RA Court of Cassation.

As of end-2012, the appeal had not been considered by the upper court jurisdiction.

ON MARCH 14, Yerevan Press Club presented the results of monitoring Armenian broadcast media coverage of the activities of political parties ahead of the May 6, 2012 elections to the RA National Assembly. YPC carried out the study within one month, November 16 - December 15, 2011.

Since March 1 YPC continued the media monitoring, conducting it in two stages: **the first stage** covered the period of March 1-31, 2012 (ahead of pre-election promotion); **the second stage** covered the period of April 8 - May 4, 2012 (pre-election promotion). Assistance to the given YPC research was provided by OSCE Office in Yerevan within the framework of the project "Support to Two Electoral Cycles in Armenia", financed by the European Union.

The YPC interim reports ahead of the parliamentary elections were published on March 20 (covering the period of March 1-10, 2012), on March 28 (March 11-20, 2012) and on April 6 (the whole first stage, March 1-31, 2012).

During the pre-election promotion YPC presented the results for each ten days of the official electoral campaign on April 25 (for April 8-17, 2012), on May 3 (for April 18-27,

2012) and on May 7 (for the whole stage, April 8 - May 4, 2012).

“Monitoring outcomes suggest that, in spite of in general diligent work of the broadcasters during the period of pre-election campaign, there remains a lot of potential for more professional coverage of the election campaign. There is also need for improvement of the RA legislation, regulating the coverage of the elections. And, most importantly, the readiness of political forces to use the opportunities provided by the media for waging a meaningful election campaign remains on a low level”, the final report of YPC particularly stressed.

Monitoring of Armenian Broadcast Media Coverage of May 6, 2012 Elections to RA National Assembly is available at http://www.ypc.am/media_research/ln/en.

ON MARCH 20, the Gavar Court of General Jurisdiction of Gegharquniq Region partially secured the lawsuit of Gegharquniq Governor Nver Poghosian versus “**Zhoghovurd**” founder, “**Editorial Office of ‘Zhoghovurd’ Daily**” LLC, and newspaper correspondent **Anna Torosian**. Nver Poghosian, the Governor of Gegharquniq at that time, had contested the article “The Governor Took a Bribe”, published in “Zhoghovurd” on October 7, 2011. The plaintiff demanded to refute the information that discredited his honor and dignity, as well as to compensate 2,5 mln AMD (over \$ 6,500): 2 mln - as a moral damage compensation, and 500,000 - court costs. The hearings on the case started on November 17, 2011. On November 28, 2011, founder of “Zhoghovurd” lodged a counter-lawsuit on the protection of honor, dignity and business reputation, demanding the Governor to apologize and compensate the moral loss with 1 Luma, the smallest Armenian currency (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

At the March 20 session the Court revoked the counter-lawsuit and obliged “Zhoghovurd” to publish a refutation. The Court also reduced the amount of financial claims up to 200,000 AMD (by 100,000 from each - the moral loss and court expenses).

On April 18, “Zhoghovurd” founder contested this ruling at RA Civil Court of Appeals, which started the hearings on May 31. On September 6, the Civil Court of Appeals revoked the complaint. On October 10, the founder of “Zhoghovurd” applied to the RA Court of Cassation. On November 30, the Court, in its turn, upheld the decision of the first instance court.

In its October 26 opinion the Information Disputes Council noted that the contested piece concerned an issue of acute public concern - an alleged corruptness of a public official. As such, the journalist and the media outlet were under the special protection of the right to free expression, if they have acted in good faith, in accordance with the norms of journalistic ethics. The IDC found that when publishing the disputed article “Zhoghovurd” daily used a proper information source and undertook all possible measures to check the truthfulness of the information. However, the courts did not take into account the principle of fair comment, which resulted in an incomplete court examination. Regarding the moral damage and its size, the IDC stressed that the courts had taken into account, amongst other circumstances, the plaintiff’s public position as an authority representative. When defining the need and amount of damage compensation, the courts should not be guided by the plaintiff’s public position. Such an approach was non-democratic, the IDC considered (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

ON MARCH 21, RA National Assembly approved in first hearing the package of the draft laws “On Legal Regime of State of Emergency”, “On Introducing Supplements to RA Code of Administrative Offences”, and “On Introducing A Supplement to ‘RA NA Regulations’”. The first hearings on the package were held on March 1.

Point 12 of Article 7 of RA Law “**On Legal Regime of State of Emergency**” sets as a measure of state of emergency “the restriction of freedom of expression, particularly, a ban on some publications, programs in media”. The **Code of Administrative Offences** was supplemented with a new Article 182.2. Point 8 of this Article imposes a fine in the amount of the 500-fold to 800-fold of a minimum wage for issuing a banned publication/program during state of emergency.

ON MARCH 24, the Court of General Jurisdiction of Arabkir and Kanaker-Zeytun Administrative Districts of Yerevan held hearings on the lawsuit of Aram Chatinian, Deputy Head of Arabkir Department of State Committee of Real Estate Cadastre, versus **freelance photo journalist Gagik Shamshian**. The matter of the lawsuit was the piece of Gagik Shamshian “High Officials Did Not Fulfill Hopes”, published in “Aravot” daily in August 24, 2011. The plaintiff demanded to bind the respondent with refuting the information discrediting his honor and dignity. The case was submitted to consideration on September 7, 2011.

At the March 24, 2012 session Aram Chatinian dropped all the claims towards Gagik Shamshian. The ruling on ending the litigation was made on March 29.

APRIL 2012

ON APRIL 4, the RA Administrative Court of Appeals revoked the complaint of the RA Ministry of Health regarding the RA Administrative Court on the lawsuit **Committee to Protect Freedom of Expression (CPFE)** versus the Ministry. On February 11, 2011, CPFE inquired the Ministry of Health information about journalists, who had been accredited or refused of accreditation. Not receiving an answer, on March 25, 2011, CPFE addressed the court, demanding to hold the actions of the Ministry unlawful and bind it with replying to the inquiry (later on, the second claim was lifted, since the respondent had provided with the requested information). On November 30, 2011, the Administrative Court secured the lawsuit, holding the actions of the Ministry unlawful (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

On May 2, 2012 the Ministry of Health addressed to the RA Court of Cassation, which upheld the rulings of the lower court instances on June 6.

ON APRIL 13, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan dismissed the lawsuit of Tigran Terterian, pupil at High School No.2 of Etchmiadzin, versus **the founder of “168 Zham” newspaper, “168 Zham” LLC, and newspaper correspondent Marineh Martirosian**. The matter of the court litigation that started on November 8, 2011 was the article by Marineh Martirosian, “Director Sued the Ministry of Education and Science”, published in “168 Zham” of May 26-27, 2011. The piece dealt with the dismissal of Susanna Nazarian, Director of No.2 School of Etchmiadzin, which was widely discussed in public. The article presented critical opinions of Etchmiadzin dwellers about the Director of the school, who also told that the Director’s son Tigran Terterian “had set the school archive on fire”. On July 15, 2011, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of

Yerevan submitted into consideration the lawsuits lodged by Susanna Nazarian and Tigran Terterian. The plaintiffs demanded to publish a refutation of the information, discrediting their honor and dignity, pay off a compensation for the damage caused by defamation of 2 mln AMD (about \$ 5,200), each. At the hearings that started on November 8, 2011 the article author Marineh Martirosian presented the Court the audio records of the interviews with the pupils of Etchmiadzin School No.2, their parents, teachers, as well as the letters sent to the editorial office. Besides, the Court was notified that the law enforcement bodies have instituted proceedings on the violations revealed by the RA Ministry of Education and Science at the School. On November 15, 2011, the consideration of the suit of Susanna Nazarian was suspended - until the investigation on the criminal case, instituted upon the piece of “168 Zham”, against her was finished. On December 27, 2012, the Court of General Jurisdiction of Armavir Region held the guilt of Susanna Shahnazarian with charges of Point 1 of Article 309 of the RA Criminal Code (“Abuse of Official Powers”) and sentenced her to one year of imprisonment. At the same time, the Court pardoned and released Susanna Nazarian. As of end-2012, the hearings on the civil suit of Susanna Nazarian against “168 Zham” have not been resumed.

On December 27, 2012, the Information Disputes Council released an opinion on the court decision, which dismissed, upon absence of grounds, the lawsuit of Tigran Terterian versus “168 Zham” daily. The IDC noted that since the contested material, reporting about the arson of the school’s document archive by Tigran Terterian, lacked any factual data, it was not realistic to provide any objective legal assessment. Thus, the IDC stressed that the Court should have clarified whether the information was based on facts or on abstract hypotheses. The Court’s conclusion on the present case, according to which the journalist used the information received from the public, and was thus exempt from any liability, ran counter the clarifications of the RA Cassation Court about the proper source of information, the IDC stressed. The reference to “the residents of Etchmiadzin” used in this article was vague, and such a “position” would allow for publication of any information about a person, the IDC noted (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/In/eng>*).

ON APRIL 19, the Court of General Jurisdiction of Ajapnyak and Davitashen Administrative Districts of Yerevan started hearings on the lawsuit of attorney Murad Asrian versus **the founder of News.am online agency, “Media Consult” LLC**. The reason for going to law became the article “Claim against Independent Media Outlet Groundless”, published in News.am on February 4, 2011. The piece contained critics about Murad Asrian, who represented the interests of “Arrhythmic-Cardiological Center of Armenia” LLC in another suit versus News.am. Particularly, the piece reported that the attorney had indicated the improper respondent in the lawsuit (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/In/en*). Murad Asrian demanded to bind News.am founder to provide him with a right to reply, and compensate the damage for libel with 2 million AMD (about \$ 4,800). At the June 22 session, the demands of the lawsuit were amended. The claim for financial compensation for moral damage remained the same, however the plaintiff specified that he demands 1 million AMD for libel and 1 million - for insult.

In its August 14 opinion the Information Disputes Council concluded: since the piece obviously undermined Murad Asrian’s professional capacities, News.am could have solicited clarifications from the plaintiff, which would retain the media from making assessments about the attorney’s knowledge of law; the procedure of returning/re-accepting a lawsuit, defined by law, should not be regarded as a sign of professionalism;

before applying to court it would have been reasonable for the plaintiff to determine the founder of the media, which, however, is not provided on the website of News.am that violates Point 2 of Part 1 of Article 11 of the RA Law "On Mass Communication". According to the IDC, conciliation was the most preferable solution in the case. But if the parties did not reach a conciliation, it would be rational to secure the suit partially, obliging the respondent to publish a refutation and/or response (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

As of end-2012, the case was pending at the Court.

ON APRIL 25, the **Freedom of Information Center** requested the party “Bargavach Hayastan” (“Prosperous Armenia”) and the Democratic Party of Armenia (DPA) to provide information on the financial means that these political forces had spent for conducting the official electoral campaign to the RA National Assembly elections. (The pre-election campaign covered the period of April 8 - May 4, 2012, the elections were held on May 6, 2012). None of the parties did respond to the inquiries, including the ones that were re-sent on May 16.

On July 2, the FOI Center lodged lawsuits with the Courts of General Jurisdiction of Arabkir and Kanaker-Zeytun Administrative Districts of Yerevan and of Kentron and Nork-Marash Administrative Districts of Yerevan against “Prosperous Armenia” and Democratic Party of Armenia, accordingly.

On September 4, before the court hearings would start, “Prosperous Armenia” provided the requested information and filed a motion to stop the proceedings on the case. On October 10, the Court of General Jurisdiction of Arabkir and Kanaker-Zeytun Administrative Districts of Yerevan dismissed the case.

The Court of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit versus the Democratic Party of Armenia on September 18. On September 21, the Court bound the DPA to answer to the inquiry and pay off the court costs of the FOI Center of 100,000 AMD (about \$ 240).

ON APRIL 26, the Court of General Jurisdiction of Shengavit Administrative District of Yerevan was taken into consideration the lawsuit of Ruzanna Azizian, Head of Monte Melkonian School No.11 of Yerevan, versus **the founder of 7or.am news portal, “Tevanyan” LLC**. Ruzanna Azizian disputed the article “The Head, Classmate of Serzh Sargsian, Requires 100 Dollars from Each of the Teachers?”, published in 7or.am on April 16, 2012. The piece was based on the emails addressed to 7or.am by parents of the school’s pupils. On the next day, on April 17, under the “Refutation” rubrics 7or.am published a response, signed by Ruzanna Azizian’s attorney. However, Ruzanna Azizian went to law, demanding to oblige the respondent to refute the information discrediting her honor and dignity, bring public apologies and pay off 400,000 AMD (about \$ 960), from which 300,000 AMD as a moral loss compensation, 100,000 - expenses for attorney services. The hearings started on May 24. In course of the proceedings, Ruzanna Azizian recalled the suit, and on August 10, the Court of General Jurisdiction of Shengavit Administrative District of Yerevan dismissed the case.

ON APRIL 27, the Court of General Jurisdiction of Tavush Region secured the lawsuit of “Ijevan Road Construction and Exploitation” CJSC versus **the founder of “Ijevan” TV channel, “Ijevan Studio” LLC**, and **the TV’s correspondent (now - Director) Naira Khachikian**. On December 2011, the road construction company contested the plot that

criticized its actions. The piece was aired on “Ijevan” TV on June 21, 2011 (it was also broadcast by Second Armenian TV Channel and “Yerkir Media” TV channel). The plaintiff demanded to bring apologies, pay off 3 mln 264 thousand AMD (about \$ 8,600), from which 3 mln for compensating the moral damage, 200,000 - attorneys’ services and 64,000 - state duty for filing the court (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

The Court of General Jurisdiction of Tavush Region secured the lawsuit, obliging the respondent to compensate the damage, caused by libel in the amount of 50,000 AMD, pay off the plaintiff’s expenses for attorney services of 20,000 and the state duty of 1,500 AMD.

On May 23, the road construction company lodged an appeal against this ruling. On July 4, RA Civil Court of Appeals abolished the ruling of the Court of General Jurisdiction and resolved to return the case to reconsideration to the same court instance.

On August 22, the Court of General Jurisdiction of Tavush Region re-considered the case, and the hearings started on September 26.

In its October 3 opinion the Information Disputes Council noted that the contested plot is of public interest. IDC namely confirmed the assessment of the court of first instance, which qualified the part of the disputed statements as value judgments and the other part - as statement of facts that were subject to being proved. According to IDC, the journalist provided vague evidences and proofs, when presenting the facts in the plot. IDC welcomed the position of the Civil Court of Appeals of reversing the case for new examination and obliging the Court of General Jurisdiction to clarify whether the plaintiff, before seeking court protection, requested the respondent to refute the published information in the same means as it was disseminated. IDC found that the clarification of this issue could have a crucial impact on the case outcome. The IDC agreed with the position of the first instance court, which had notably reduced the sum of financial claims towards the respondent. IDC also upheld the approach of the Court of Appeals, which had stated as an omission the fact that the plaintiff had not provided any evidence concerning the damage caused, therefore the issue of monetary compensation should be subject to new examination (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

As of end-2012, the hearings on the case continued.

ON APRIL 27, the RA Court of Cassation rendered two precedent judgments on two defamation suits: Dr. Tatul Manaserian, former Advisor to RA National Assembly Chairman, versus **the founder of “Zhamanak” daily, “Skizb Media Kentron” LLC**, and Vano Eghiazarian, Elder of Lernapat village, versus co-villager Boris Ashrafian, in which **the “Zhamanak” daily founder** appeared as a third party (*see below*).

The rulings provide **commentaries on Article 1087.1 of RA Civil Code** (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”) and definitions of the notions of the Article. Pursuant to the Court of Cassation’s mission, these commentaries would contribute to the uniform court interpretation of the Civil Code provisions prescribing liability for libel and insult. This issue gained currency, since the court practice on defamation cases manifested the absence of such uniformity.

Particularly, the Court of Cassation defined the notions of “**libel**” and “**insult**”. “**Libel**” is a statement of facts that is false, publicly spoken and harms the honor, dignity and

business reputation of a person. “**Insult**” is a public statement (wording, image, sound, etc.) that is made with fault and is harmful to someone’s honor, dignity and business reputation.

According to the Court of Cassation, in case of absence of one of the abovementioned criteria, there can be no libel and insult and subsequently no damage compensation.

At the same time, the Court of Cassation mentioned that even in presence of all the above-mentioned criteria, the **statement cannot be assessed as “insult”** if it is based on **facts** or there is a **pressing public interest**.

Facts are considered to be those which are proved either immediately in the communication, or are common truths and are not subject to proof. Referring to the practice of the European Court of Human Rights, the Court of Cassation stressed the need of making clear distinction between statement of facts and **value judgments**: proving the latter is “an impossible task and such a requirement is a restriction of freedom of expression” (July 8, 1986 ECHR ruling on the case *Lingens vs. Austria*). At the same time, if the statement is qualified as a value judgment it needs a certain factual basis (December 17, 2004 ECHR ruling on the case *Pedersen and Baadsgaard vs. Denmark*), otherwise it will be assessed as excessive (July 1, 1997 ECHR ruling on the case *Oberschlick vs. Austria*) or not permissible (May 27, 2004 ECHR ruling on the case *Rizos and Daskas vs. Greece*).

Under each court litigation and preceding from the specific circumstances and the content of information the courts should define to what extent the information is conditioned by the **pressing public interest**, taking into account the mission of media - to inform about issues of public importance and disseminate opinions and ideas.

In presence of all the above-mentioned criteria, **a statement of facts is not qualified as “libel”**, if: it regards the circumstances of a case that is pending at court or is at a pre-court stage; it is conditioned by the pressing public interest; it derives from the public speech of a person who is subject to critics. At the same time, the Court of Cassation stressed that, unlike in case of insult, there should be a factual basis for holding a pressing public interest in case of libel. Particularly, the person who has released the information should prove that before this he/she had taken measures for defining the public significance of information and its possible truth. Besides, this information should be presented with **bona fide** and **in a balanced way**. The Court of Cassation also defined these two notions, as well as the notion of “**publicity**” of statement of facts.

The Court of Cassation also provided commentaries on the issue of **exemption from liability** for libel and insult. The matter of the dispute is settled, if the party subjected to libel/insult has requested and received a refutation/a right to reply in line with the RA Law “On Mass Communication”. The person is exempted from liability if simultaneously two conditions are observed: the statement fact is a verbatim or bona fide **quotation** of public speeches, official documents, works of authors, media publications; the disseminated information contains **a reference to a source**. At the same time, the Court of Cassation stressed that even in presence of these circumstances the person is not exempted from liability if his/her malicious intention is proved during the litigation. The Court of Cassation interpreted the notions of “**source of information**” and “**media outlet**” (for the latter it referred to Article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, as well as to the ECHR rulings on the cases of *Muller and Others vs. Switzerland*, May 24, 1988, and *Autronic AG vs. Switzerland*, May 22, 1990).

As for **the critics of public figures**, the acceptable limits of criticism as regards the government are wider than towards private individuals, or even politicians, stated the Court of Cassation referring to the ECHR case law. In a democratic society, the actions or omissions of the government must be subject to the close scrutiny not only of the legislative and judicial authorities but also of press and public opinion (June 9, 1999 ECHR ruling on the case *Incal vs. Turkey*).

While **determining the size of pecuniary compensation** of the damage caused by libel and insult, the courts should take into account the financial situation of the respondent (demanding respective documents), as well as the means, tools and scope of the dissemination of information, say the print run of a newspaper.

According to the Law “On Mass Communication”, the demand for refutation/right to reply can be made not later than a month after the dissemination of information. Article 1087.1 of Civil Code prescribes **a term for filing a lawsuit on libel or/and insult**, which should be not later than 6 months. According to the Court of Cassation, the 6-months term is reasonable and after it is expired, it should be regarded as defaulted.

As noted above, the precedent rulings of the Court of Cassation were made upon two defamation cases.

THE LAWSUIT of Dr. Tatul Manaserian, former Advisor to RA National Assembly Chairman, versus **the founder of “Zhamanak” daily, “Skizb Media Kentron” LLC**, was filed with the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan on October 29, 2010. The reason for the lawsuit became the piece “Criminal Proceedings versus the Advisor to NA Chairman?” published in “Zhamanak” on September 29, 2010. The article alleged that criminal proceedings on a charge of usury were instituted versus the Speaker’s Advisor by the Kentron Police Department. On the same day, Tatul Manaserian called to the daily’s editorial office demanding to refute the information discrediting him. On September 30, “Zhamanak” published an article “Mr. Manaserian Haven’t You Lent \$40,000 at Interest?”, which explained that criminal proceedings were instituted not versus Tatul Manaserian, but on the case of usury. The former Advisor to the speaker of parliament addressed the Court demanding a refutation and compensation of 2,5 million AMD (about \$ 6,800), from which 2 million - for the damage caused by libel and 500,000 - court expenses. On September 20, 2011, the Court partially secured the suit, binding the founder of “Zhamanak” to publish a refutation and pay off the plaintiff 510,000 AMD (300,000 - compensation for moral loss, 200,000 - court expenses, and 10,000 - state duty for filing the court). The founder of “Zhamanak” appealed this decision at the RA Civil Court of Appeals, which upheld it on December 15, 2011. The Civil Court of Appeals grounded the revocation of the complaint particularly by the fact that “Zhamanak” had not duly refute the information discrediting the plaintiff (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*).

On January 18, 2012, “Zhamanak” founder addressed the RA Court of Cassation, which on April 27 upheld the rulings of the lower court instances.

In its June 26 opinion the Information Disputes Council expressed concern regarding the interpretation of the notion of “source of information” in the precedent-setting ruling of the Court of Cassation. The Council particularly stressed that even though in the case of Tatul Manaserian versus “Zhamanak” founder, the daily disclosed the name of the person, who

provided the information, the Court of Cassation found that the given person could not be considered as a “source of information” - pursuant to its interpretation of this notion. As a result, even if the received information was reproduced word by word and in good faith, the one, who has disseminated it, cannot be relieved of liability. Likewise the Court introduced the concepts of proper and improper sources, thus restricting the scope of the sources that the media could make use of, the IDC stressed. Such an approach particularly contradicted the Recommendation No.R (2000)7 of the Committee of Ministers of Council of Europe “On the Right of Journalists Not to Disclose Their Sources of Information”, according to which the source of information “means any person who provides information to a journalist”. The same Recommendation noted that journalists may receive their information from all kinds of sources. Therefore, a wide interpretation of this term was necessary in national legislation and practice. The IDC emphasized the necessity to revise the commentaries of the Court of Cassation regarding the “source of information” (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/ln/eng>*).

THE HEARINGS ON THE LAWSUIT of Lernapat Elder Vano Eghiazarian versus his co-villager Boris Ashrafian, in which **the “Zhamanak” daily founder, “Skizb Media Kentron” LLC**, appeared as a third party, started at Court of General Jurisdiction of Lori Region on February 9, 2011. The matter of the lawsuit was the interview of Boris Ashrafian published in “Zhamanak” daily on September 1, 2010. The piece contained critics about the village Elder. The plaintiff demanded to apologize in “Zhamanak” and compensate the moral damage of 3 mln AMD (about \$ 8,100). On July 22, 2011, the Court partially secured the lawsuit binding Boris Ashrafian to publish apologies in “Zhamanak” and compensate the damage of 300,000 AMD. Both of the parties had contested the ruling at the RA Civil Court of Appeals. On October 5, 2011, the complaints were revoked (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*).

Boris Ashrafian addressed the RA Court of Cassation. On April 27, 2012, the Court of Cassation cancelled the rulings of the courts of first and second instances, holding to finally revoke the lawsuit of Lernapat Elder Vano Eghiazarian.

MAY 2012

ON MAY 3, the RA Administrative Court started hearing the lawsuit of **Levon Barseghian, Board Chairman of “Asparez” Journalists Club of Gyumri**, versus the Kentron Police Department of Yerevan. The reason for going into law was the incident that occurred in the morning of September 21, 2011 in Yerevan city center. The twelve citizens, who had gathered at the statue of Martiros Sarian, were preparing for the protest action against the participation of foreign units in the military parade on the occasion of the 20th Anniversary of Armenia’s Independence. The lieutenant colonel of police who introduced himself as one of the heads of the Kentron Police Department, questioned the activists about their intentions, then went away, and after a while ordered the representatives of law enforcement bodies to arrest the action organizers - Levon Barseghian and sculptor Arno Kur (Sasha Galechian). The latter ones were conveyed to the Kentron Police Department, where they stayed more than 3 hours and were released when the parade was over. In the evening of the same day Levon Barseghian and Arno Kur delivered a statement, which particularly noted that their detention was illegitimate: there was a use of force, an attorney was not allowed to visit them, and they were not presented the protocol of reconduction. The statement authors emphasized that the police violated their constitutional rights to freedom of movement, assembly and expression; thereby they were intended to address the court. On December 9, 2011, the RA Administrative Court submitted the lawsuit of

Levon Barseghian versus the Kentron Police Department (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

As of end-2012, hearings on the case continued.

ON MAY 6, a number of incidents occurred with the journalists, who were reporting about the ballot day of the RA National Assembly.

At about 10.00 at 5/11 electoral precinct of Davitashen district of Yerevan a young man obstructed **Nelly Babayan, correspondent of “Aravot” daily**, while she was taking photos with her cell phone. The incident was settled when after a while the mobile was returned to the journalist. "Aravot" news portal, www.aravot.am, reported about this.

At about 8.30, the RA Procuracy received a hot line report, informing that at the 34/25 precinct of Gyumri Spartak Ghukasian, son of the city Mayor Vardan Ghukasian, took away the camera from **Varazdat Papikian, cameraman of “Kentron” TV channel**, and then made him leave the precinct.

A similar alert was registered by the RA Procuracy from the precinct 34/21 of Gyumri. At about 8.30 a group of men entered the precinct and took away the camera of **Vladimir Khachatryan, correspondent and cameraman of “Kentron” TV channel**, installed at the precinct.

At about 9.30 at the electoral precinct 34/26 of Gyumri four young men tore off the journalistic ID from clothes of **Karen Alekian, correspondent of “Maks-Info” news agency**, and took away the video camera, provided to him by “Prosperous Armenia” party. Two hours later the camera was returned broken. At 18.30 journalist addressed to the Gyumri Police Department.

The information about the abovementioned three incidents that happened with journalists in Gyumri was placed on the website of RA Procuracy (www.genproc.am) on May 10. The RA Procuracy also reported that it had instituted criminal proceedings upon the incidents at the 34/21, 34/25 and 34/26 precincts of Gyumri with charges of Article 149 of RA Criminal Code (“Obstruction of the realization of the right to vote, the work of electoral commissions or the competence of people taking part in elections”). The cases were addressed to the RA Special Investigative Service, which had subsequently dismissed all the three cases due to absence of corpus delicti.

At about 11.00 at 12/33 electoral precinct of Erebuni district of Yerevan a young man approached **Elina Chilingarian, correspondent of Armenian Service of Radio Free Europe/Radio Liberty**, when she was shooting the crowds gathered at the precinct. A man hit her hand and tried to take the videocamera. The journalist addressed to Erebuni Police of Yerevan. On May 8, the Erebuni Police informed the journalist that the assaulter was identified, and criminal proceedings were instituted with charges of Article 164 of RA Criminal Code (“Impeding the legitimate professional activities of a journalist”). The case was addressed to the RA Special Investigative Service, which dismissed it on July 12 due to absence of corpus delicti.

On May 14, RA Procuracy informed on www.genproc.am about two other cases in Gyumri dealing with media representatives, who were covering the parliamentary elections.

According to RA Procuracy, on May 11 A.Hovhannisian, Chairman of electoral commission of 34/20 precinct in Gyumri, informed that on May 6 at 8.00 **Roman Sargsian, representative of “Kentron” TV channel**, attempted to install a video camera at a polling booth and thus violate the ballot secrecy.

On the same day, May 11, **Naira Nalbandian, correspondent of “GALA” TV company of Gyumri**, informed that on May 5 at about 19.00 Grigor Hovhannisian, Chairman of 33 district electoral commission of Gyumri, refused to provide information, disputed with her and impeded her professional activities. On May 16, the Police Department of Gyumri refused to institute criminal proceedings due to absence of corpus delicti.

ON MAY 7, the international observers, involving the OSCE/ODIHR, the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the European Parliament released the statement of preliminary findings and conclusions on RA National Assembly elections. The international observers characterized the 6 May 2012 parliamentary elections in Armenia as “a competitive, vibrant and largely peaceful campaign”. At the same time, the international observers were concerned with “an unequal playing field due to violations of campaign provisions and cases of pressure on voters, as well as deficiencies in the complaints and appeals process”.

One of the sections of the statement dealt with the media activities. It particularly stated: “Despite limited content diversity, during the official campaign period, which started on 8 April, broadcasters guaranteed access to all major political parties, thus enabling voters to be informed of their political positions. This appears to be an improvement over the period prior to the official campaign.” Based on the results of monitoring, conducted by OSCE/ODIHR Election Observation Mission and covering 6 national media (First Channel of the Public Television of Armenia, Second Armenian TV Channel, “Armenia”, “Shant”, “Yerkir Media”, “Kentron”), two radio stations (Public Radio of Armenia, Radio Free Europe/Radio Liberty) and one official newspaper (“Hayastani Hanrapetutian”), the international observers emphasized: “In several cases TV channels, instead of relying on their own material, broadcast in their news the same campaign material which was also used in paid political advertisement. Such practices damage the credibility of media reporting and undermine the autonomy of the media from the political sphere, and may have been misleading for viewers” (see details in <http://www.osce.org>).

ON MAY 11, National Commission on Television and Radio (NCTR) released the data on monitoring the ensuring by Armenian TV and radio companies of equal conditions for parties/bloc and candidates running in the election to RA National Assembly by proportional or majoritarian systems. The NCTR administered the monitoring in compliance with RA Electoral Code. In line with the law, the results of the study were being published and presented to the Central Electoral Commission on the 10th and 20th days of pre-election promotion (on April 17 and 27, 2012), as well as two days before of the announcement of the official ballot results (before May 11, 2012).

In addition to the quantitative data of the monitoring (the overall volume of airtime, allocated to parties/bloc and majoritarian candidates by TV and radio companies; the paid and free airtime, provided by broadcasters for pre-election promotion of parties/bloc and candidates), the final report of the regulatory body also listed the complaints addressed to NCTR dealing with the coverage of pre-election campaign by some TV companies and the measures taken in this regard.

The report particularly noted that on May 7 NCTR instituted administrative proceedings

versus “**Kentron**” TV channel. At its May 11 session NCTR imposed a fine on “Kentron” of 1 mln AMD (more than \$ 2,500) - for broadcasting a promotional program on a day during which pre-election promotion was prohibited by the RA Electoral Code. This concerned the piece aired by “Kentron” on the voting day, May 6, which contained a promotional call by a representative of Armenian National Congress electoral bloc.

The NCTR report is available in Armenian at <http://www.tvradio.am/?p=3705>.

ON MAY 24, the US Department of State released the report on human rights practices in different countries of the world in 2011, prepared by the Bureau of Democracy, Human Rights, and Labor.

One of the sections of the country report on Armenia described the situation with freedom of speech and press. Highlighting the decrease in instances of violence against journalists in 2011, US State Department however noted that “free speech was limited by a surge of libel and defamation lawsuits in which members of the politically connected business elite were awarded large monetary damages against opposition newspapers and journalists”.

The media, especially TV companies, continued to lack diversity of political opinion and objective reporting, stressed the report. The switchover process from analog to digital broadcasts further restricted the number of TV channels; meanwhile the government did not release the audit of the broadcasting frequencies that provided the technical basis for limiting the number of digital broadcast licenses.

The State Department’s report also mentioned some court litigations dealing with media: particularly, the legal disputes between Gyumri Municipality and founder of the local “GALA” TV company regarding the right to use the city TV tower; the lawsuit of “A1+” TV company founder versus National Commission on Television and Radio, which had contested the results of the digital broadcast licensing competitions.

The full report of US Department of State on human rights practices in Armenia in 2011 is available at http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186326.

JUNE 2012

ON JUNE 4, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan considered the lawsuit of Mikhail Andreasian, former military pilot, Head of “Armavia” Air Company’s Headquarters, versus the founder of “**Novoye Vremya**” newspaper, “**Novoye Vremya Newspaper’s Editorial Office**” LLC. The lawsuit on the protection of honor, dignity and business reputation contested the article “And Those Who Happened to Stay Alive...”, printed in “Novoye Vremya” on February 7, 2012. According to the plaintiff, one of the incidents of the Karabagh war, in which he also took part, was distorted in the article. The lawsuit, containing a demand of public apologies and refutation, was taken into consideration on June 8. The hearings started on August 29.

On December 3, the Court confirmed the conciliation between the parties, signed on November 14 upon the suggestion of the respondent. According to the document, the respondent should have published the article, “You Cannot Deceive Many for Long, You Cannot Deceive for Long Many. You Cannot Deceive Everybody Endlessly”, in which the plaintiff expressed his opinion about the contested article. In his turn, Mikhail Andreasian committed to refrain from going into law with the same grounds and with the same claims.

ON JUNE 8, the RA Court of Cassation annulled the decisions of lower court jurisdictions on revoking the appeal of Vladimir Baghdasarian, priest of the Sevan community of “Unity” Church of Armenian Evangelical Christians, regarding the denial of Sevan Department of RA Police to institute criminal proceedings versus **Arpi Sukiasian, correspondent of “Shant” TV company, and its cameraman Eduard Petrosian**. On November 10, 2010, the shooting team of “Shant” TV company, which was on duty in Sevan, entered a building that had no signs, and found out that it was the place of gathering of the abovementioned religious organization (at the same time one of the floors of the building was privately owned). When Vladimir Baghdasarian saw that the journalists were shooting, he demanded the cameraman to turn off the video and leave the building, and then he hit the cameraman on his face. On December 24, 2010 criminal proceedings were instituted versus Vladimir Baghdasarian. Right after the incident Vladimir Baghdasarian, in his turn, brought a communication to the police accusing Arpi Sukiasian and Eduard Petrosian in illegal incursion into property (under Article 147 of RA Criminal Code, “Violation of inviolability of domicile”). On February 17, 2011, the Sevan Department of RA Police denied to institute criminal proceedings versus the journalists of “Shant” under the absence of corpus delicti. Vladimir Baghdasarian appealed both the police’s decision at the Court of General Jurisdiction of Gegharquniq Region. The appeal was revoked on July 13, 2011. On the same day the same Court found the priest guilty with charges of Part 1 of Article 164 of RA Criminal Code (“Impeding of legitimate professional activities of a journalist”) and imposed a fine of 200,000 AMD (about \$ 500). At the same time, the Court pardoned the priest and exempted him from paying the fine. Vladimir Baghdasarian appealed at the second court jurisdiction both his accusatory verdict, as well as the court decision on revoking the appeal on the non-institution of criminal proceedings versus “Shant” journalists. On December 12, 2011, RA Criminal Court of Appeals upheld the decisions of the General Jurisdiction Court on both of the cases (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

On June 8, 2012, the Court of Cassation annulled the decisions of lower court jurisdictions and addressed the case to the same Court of General Jurisdiction of Gegharquniq Region for a new consideration. The ruling of the Court of Cassation was based on the violation of procedural norms, made during the litigation. (Earlier, on February 17, 2012 the Court of Cassation had upheld the verdict against Vladimir Baghdasarian on the charges of impeding the legitimate professional activities of a journalist.)

On July 24, the Court of General Jurisdiction of Gegharquniq Region once again revoked the complaint of Vladimir Baghdasarian regarding the denial to institute criminal proceedings versus “Shant” representatives. The priest contested this ruling at the Criminal Court of Appeals, which dismissed the complaint on September 7. The Court justified the dismissal on the grounds that the application regarding the actions of the investigator should have been filed not with the Court but with the Procuracy. The Court of Appeals also considered the fact that even though the site of the incident was privately owned, it served as a public place, to which the journalists’ access could not be entry. Vladimir Baghdasarian appealed this ruling with the Court of Cassation, which, on October 31, also dismissed it.

ON JUNE 8, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan submitted into consideration the lawsuit lodged by Anushavan Nikoghosian versus **the founder of Slaq.am news portal, “Virtual Media” LLC**. The plaintiff contested the piece, “The True Reason of Anushavan Nikoghosian’s Resentment”,

which contained critics about him as a candidate running for the 2012 parliamentary elections by a majoritarian system. Anushavan Nikoghosian demanded public apologies, refutation on Slaq.am and compensation of moral loss caused by libel and insult in the amount of 3 mln AMD (about \$ 7,300). Hearings on the case started on July 12. On December 14, the Court dismissed the suit binding Anushavan Nikoghosian to pay off the court costs of 60,000 AMD (in proportion with claims of the lawsuit).

ON JUNE 22, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan took into consideration the lawsuit of Artur Sakunts, Head of Vanadzor branch of Helsinki Citizens Assembly, versus Ruben Hayrapetian, President of the Football Federation of Armenia. **The Public Television of Armenia** appeared in the case as a third party. The matter of the suit on the protection of honor and dignity was the statement made by the Football Federation’s President on May 26, 2012 on the air of the sport program “Extra Time” of PTA First Channel. Artur Sakunts assessed this statement as an insult. The plaintiff demanded to bind Ruben Hayrapetian with bringing public apologies and paying off 10 AMD as a compensation of moral loss. The hearings started on July 25. On August 29, the Court of General Jurisdiction revoked the lawsuit.

JULY 2012

ON JULY 4, Information Disputes Council released an opinion regarding the ruling of Court of General Jurisdiction of Ajapnyak and Davitashen Administrative Districts of Yerevan on the lawsuit of Gevorg Hayrapetian versus **the founder of “Kentron” TV company, “Multimedia-Kentron TV” CJSC**. Gevorg Hayrapetian, being accused for a crime, had contested the pieces aired in the programs from “Investigation” cycle of “Kentron” TV channel and broadcast on November 14-21, 2010. According to the plaintiff, the factual inaccuracies in the pieces discredited his honor and dignity. Besides, the pieces were aired on “Kentron” before the court verdict came into force (it was rendered on October 25, 2010 on accusation of high treason and was to be in effect after a month). Thus, the presumption of innocence was violated. The plaintiff demanded to bind the founder of “Kentron” to provide free air for refuting the untrue information, compensate the moral damage caused by libel and insult in the amount of 3 mln AMD (about \$ 7,900) and to pay off the expenses for attorney’s services of 300,000 AMD. On June 16, 2011, the Court of General Jurisdiction revoked the lawsuit. Gevorg Hayrapetian appealed the ruling at the upper court jurisdictions, which also turned down the complaints. A similar ruling was rendered by the same court jurisdiction in another case on the protection of honor and dignity of Ashot Harutiunian, being accused for a crime, versus “Kentron” founder (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/in/en*). In fact, the Information Disputes Council’s opinion also applied to this court ruling.

The Court revoked the lawsuit of Gevorg Hayrapetian on the grounds of Part 3 of Article 9 of RA Law “On Mass Communication” and Part 6 of Article 1087.1 of RA Civil Code (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”), ruling out that the contested information of “Kentron” contained a reference to the source (i.e., the RA Procuracy, which provided data on the criminal proceedings) and the information was reproduced with good faith. The IDC agreed with this position.

As regards the presumption of innocence, the Court considered the respective demand of the plaintiff baseless, since the Armenian civil law does not set out any legal protection against violation of presumption of innocence. According to the IDC, this issue should be

viewed from the journalism ethics perspective. The IDC highlighted the Recommendation Rec(2003)13 of the Council of Europe Committee of Ministers on the provision of information through the media in relation to criminal proceedings. One of the principles of this documents states: “Respect for the principle of the presumption of innocence is an integral part of the right to a fair trial. Accordingly, opinions and information relating to on-going criminal proceedings should only be communicated or disseminated through the media where this does not prejudice the presumption of innocence of the suspect or accused.”

The IDC mentioned that even though “Kentron” TV channel has reproduced in good faith the information received from a reliable source, it must respect the presumption of innocence of the accused. This was also conditioned by the fact that Armenian media “have frequently stated that they prefer to work under self-regulation mechanisms, such as codes of professional ethics”, the IDC mentioned (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/ln/eng>*).

ON JULY 9, the Court of General Jurisdiction of Kotayk Region started hearing the lawsuit of Hrazdan resident Gagik Atasian versus **Mnatsakan Harutyunian, Director of “Hrazdan” TV company**. On January 18, 2012, “Aravot” daily (www.aravot.am) published an article by Mnatsakan Harutyunian, “Revelation: the Real Face of the ‘Man of the Year’”, which criticized Gagik Atasian. The same piece, followed by the editorial comments, appeared in “Hetq” online (www.hetq.am) and “Hraparak” daily (www.hraparak.am). Another similar piece by Mnatsakan Harutyunian, “‘World-known Film Director’, ‘Citizen of the Year’ or...”, was published in the newspapers “168 Hours” (www.168.am) and “Zhamanaki Mitk” (www.mitk.am). All these articles were also stored on the website of “Hrazdan” TV company (www.hrazdantv.am). On May 29, Gagik Atasian filed the Court of General Jurisdiction of Kotayk Region, demanding from Mnatsakan Harutyunian public apologies, moral loss for libel and insult in the amount of 3 mln AMD (about \$7,300) and publishing the court ruling in the above-mentioned media outlets. The hearings on the case started on July 9 and are still pending. On October 26, the Court submitted the counter-lawsuit of the respondent, who had contested the statements of Gagik Atasian, quoted in the August 7, 2012 article of “Aravot”, “The Plaintiff Says that Has Nothing against the Media”. In his turn, Mnatsakan Harutyunian demanded refutation and moral damage for libel in the amount of 2 mln AMD.

In its December 5 opinion the Information Disputes Council noted that the dispute touched upon topics of pressing public interest: within 2011-2012 in his interviews Gagik Atasian consistently called on the media to shoot a feature film on the Karabagh war, with the involvement of world renowned actors, he had announced about the refusal from the governmental side to support his project, as well as he had received threats from the Azerbaijani sources. All this contributed to wide public discussions in media and social networks. Thus, according to the IDC, Gagik Atasian had cast public attention on his personality and should have expected wider scopes of criticism about him and his actions, compared with ordinary citizens. Analyzing the January 18, 2012 piece of “Aravot”, the IDC stressed that it presented information about Gagik Atasian and his public statement, earlier disseminated by different media. At the same time, from the perspective of journalistic freedom the author had used permissible limits of satire. While expressing doubts on the accuracy of Gagik Atasian’s statements, Mnatsakan Harutyunian invoked his own investigation and facts that were well known in Hrazdan - the residence of the plaintiff and of the respondent. The IDC emphasized that the plaintiff contested the post scriptum part of the piece, where the author had sharply criticized Gagik Atasian, by accusing him for lying and keeping the public in deception for long time. The IDC found it appropriate to

evaluate the P.S. part of the article under wider scopes, in the context of the entire article and all the events surrounding it. On the background of these developments, the plaintiff had not presented any fact or justification that the information he provided to public corresponds to the reality. The IDC stressed that the critics and value judgments about Gagik Atasian were made on sufficient factual basis and stemmed from the inconsistency between his public statements and behavior. Thus, the author acted in good faith and within the scope of professional requirements (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/ln/eng>*).

As of end- 2012, court hearings on the case continued.

ON JULY 10, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan approved the amicable agreement between the members of “Jehovah's Witnesses” religious organization and the employees of **Public Television of Armenia, Gevorg Altunian, Sona Torosian, Nuneh Aleksanian and Edgar Davtian**. On December 9, 2010, seven members of “Jehovah's Witnesses” contested at court the information, which was aired on November 9, 10 and 11, 2010 in the programs of PTA First Channel, “Haylur” and “Tesankyun”. The pieces informed that A.T., inhabitant of Sevan, being accused for murdering his parents, was a member of “Jehovah's Witnesses”. The plaintiffs demanded to refute the untrue information, discrediting their honor and dignity, and the business reputation of the religious organization, as well as made financial claims. The court hearings on the case started on April 13, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

According to the amicable agreement, concluded between the parties, the plaintiffs refrain from their claims upon the condition that the respondent publishes a refutation. On June 5, 2012, PTA First Channel aired twice the information saying that the abovementioned accused A.T. was not a member of “Jehovah's Witnesses”. The text of refutation was also stored on the TV company’s website.

ON JULY 11, the Gyumri Court of General Jurisdiction of Shirak Region revoked the lawsuit of Arman Avetisian, Chairman of the Board of Trustees of “Minas Avetisian” Charitable Foundation, versus **Levon Barseghian, Board Chairman of “Asparez” Journalists Club of Gyumri**. The reason for the lawsuit became the pieces “Struck the Family Capital”, “Arman Avetisian Is Lying for Unknown Reasons”, “Some Things Cannot Be Forgiven”, placed on “Asparez” website (www.asparez.am) on June 11-16, 2011. The articles dealt with the developments regarding the transfer from Gyumri to Yerevan of two frescoes by the famous Armenian painter Minas Avetisian (Arman Avetisian is one of his sons). The respective governmental decision was passed on April 28, 2011 and resulted in a wide protest, numerous actions in Gyumri. On June 23, 2011, Arman Avetisian sent a letter to the Head of “Asparez”, demanding to publish a refutation or a reply. The letter was stored on the “Asparez” website on June 30, 2011. Moreover, Levon Barseghian expressed his readiness to publish the refutation, whenever it was presented by Arman Avetisian. Meanwhile, on August 4 the Head of “Minas Avetisian” Foundation addressed the court, demanding to oblige Levon Barseghian to present apologies, publish a refutation and the court ruling, compensate the damage for libel and insult in the amount of 2 million AMD (about \$ 5,500), as well as the court expenses of 200,000 AMD. Hearings on the case started on September 9, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*).

According to the Court ruling, the lawsuit was revoked since Arman Avetisian had missed

the one-month term defined by law for addressing the court. It should be noted that according to Part 13 of Article 1087.1 of RA Civil Code (“Order and Conditions of Compensation of Damage to the Honor, Dignity or Business Reputation”), a claim shall be submitted to the court within 6 months from the moment of insult or defamation (in the given case from the moment of publication of the pieces - *Ed. Note*), but no later than within one month from the moment the person becomes aware of the insult or defamation. The letter of Arman Avetisian to Levon Barseghian was dated of June 23, 2011, while the lawsuit was submitted on August 4, 2011. This was also stressed in the June 8, 2012 opinion of Information Disputes Council (*the IDC opinion is available in Armenian at <http://www.ypc.am/expert/ln/eng>*).

ON JULY 12, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan made a ruling on the case of Artashat dweller Margarita Martirosian against her daughter-in-law Hripsimeh Karapetian. “**168 Zham**” daily was involved in the case as a third party. The plaintiff contested the article, “I Cannot Go On, When a Man without Guilt is Convicted”, published in “168 Zham” on November 4, 2010. The article was based on a story told by Hripsimeh Karapetian. The plaintiff particularly demanded refutation of statements diminishing her honor and dignity. The case was submitted into consideration on December 3, 2010.

The Court obliged “168 Zham” to publish the text of refutation.

ON JULY 13, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan ended hearing the lawsuit of Margarita Khachatrian, Chairwoman of “Zinvor” (“Soldier”) Association of NGOs, versus “**Hraparak**” daily founder, “**Hraparak Oratert**” LLC. The reason of the lawsuit was the piece that informed about Margarita Khachatrian’s visit to one of the military units, and had appeared in “Hraparak” on April 21, 2011. Head of “Zinvor” demanded to refute the information published in the piece, recompense the damage, made by libel and insult of 2 million AMD (about \$ 5,400) and cover the state duty for filing the court. The hearings on the case started on November 10, 2011.

It should also be noted that the contested piece caused an incident at “Hraparak” editorial office on April 21, 2011. Margarita Khachatrian, accompanied by three people, came to the “Hraparak” editorial office to express her indignation with the published piece. According to Armineh Ohanian, the Chief Editor of the daily, while talking with the staff the head of “Zinvor” was free-spoken, threw at them everything that came to hand; as a result they had to call the police. On May 26, 2011, the law enforcement bodies notified the newspaper that criminal proceedings on the case will not be instituted for absence of corpus delicti. “Hraparak” founder appealed this decision at court. The case was examined by several court instances, and subsequently Kentron Police Department of Yerevan instituted criminal proceedings (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, http://www.ypc.am/about_freedom/ln/en*). On March 16, 2012, the daily informed that Kentron Police Department dismissed the case for the second time and for the same reason - absence of corpus delicti.

At the final hearings of July 13 Margarita Khachatrian dropped the financial claims towards “Hraparak” founder, demanding only to publish a refutation.

On July 30, the Court of General Jurisdiction revoked the lawsuit. On August 27, Margarita Khachatrian contested this ruling at the RA Civil Court of Appeals, which admitted the complaint on September 11.

In its October 15 opinion the Information Disputes Council did not uphold the Court’s position, which declined the lawsuit, considering that the disputed information was presented in good faith: since the piece quoted the opinion of Margarita Khachatrian, who refuted that there had been an incident between her and the headquarters at the military unit, the Court found that the piece, in fact, contained a refutation. According to the IDC, this form of reporting could not be considered as a proper refutation, defined in the RA Law “On Mass Communication”, and it did not exempt the media from the obligation of publishing a refutation (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/In/eng>*).

On November 23, the Civil Court of Appeals stroke down the ruling of the first instance court and obliged “Hraparak” newspaper to publish a refutation, while its founder had to compensate the court costs of Margarita Khachatrian in the amount of 14,000 AMD. On December 21, “Hraparak” lodged a complaint with the Court of Cassation.

As of end-2012, the complaint has not been examined by the Court of Cassation.

AUGUST 2012

ON AUGUST 23, RA Government approved the requirements on the implementation of the description of provision of services of **terrestrial digital television and radio broadcasting system in the Republic of Armenia**. The Government’s decree and its supplement were a technical task, which had to be implemented for switching from analogue to digital broadcasting. “In fact, by this decision we approved the technical requirements, and the companies, who will assume the duties of digitization of our television, will be invited to participate in the tender. We have a commitment to the European Union and have to carry it out by 2015”, said the RA Prime Minister Tigran Sargsian at the Government’s session (*as quoted on the RA Government website, www.gov.am*). It should be noted that analogue broadcasting should be switched off in Armenia from January 1, 2015.

SEPTEMBER 2012

ON SEPTEMBER 8, Committee to Protect Freedom of Expression, Yerevan Press Club, Internews Media Support NGO, “Asparez” Journalists’ Club, Media Diversity Institute-Armenia, “Journalists for the Future” NGO released a statement regarding the restriction of access of the journalists of Shirak region to the briefing of the RA President Serge Sargsian in Gyumri.

“On September 4 during the RA President’s visit to Gyumri, the representatives of the Office of the head of the state restricted the local journalists from participating in the brief, held at the Gyumri Mother and Child Care Hospital.

The clarifications on the incident provided by the Department of Public Relations and Mass Media of RA President’s Office were not convincing. One can imply from them that the administration of the President sorts out a certain class of media outlets, where the coverage of activities of the head of the state is preferred more than it is on other outlets. This was most vividly demonstrated in Gyumri, where the local media has a quite big audience. Hence, in this case, when visiting the city, the RA President should have been particularly interested in communicating with Gyumri citizens.

In general, an unwritten rule is observed at the governing elite. According to this rule, when dealing with media outlets, preference is first given to foreign media, then - to some “favorite” national and capital based broadcasters, and at the very end - to regional media. This is an extremely vicious phenomenon, especially in those cases, when the information or the message is, in fact, intended for the audience of those media, which fall out of “favorites’ list”. This sort of conduct of the state officials impedes the ensuring of fair competition among media, as well as the right to receive and disseminate information. Hence, we call to revise such an approach.

As regards the incident in Gyumri, we expect the Department of Public Relations and Mass Media of the Office of the RA President to bring apologies to all those accredited journalists, who did not get the chance to carry out their professional commitment towards their audience”, the statement of six journalistic associations emphasized.

ON SEPTEMBER 24, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started the preliminary hearings on the lawsuit of blogger Tigran Kocharian versus **the founder of “Chorrord Inknishkhanutiun” daily, “Trespassers W.” LLC**. The matter of the litigation was the piece “Fascist and Elephant: Save the Elephants”, printed in “Chorrord Inknishkhanutiun” on July 13, 2012. The piece contained critics about Tigran Kocharian, whose Internet nickname is “Elephant”. The plaintiff demanded to refute the untrue information and to compensate the moral loss, caused by libel and insult, in the amount of 3 million AMD (about \$ 7,300). The lawsuit was submitted on July 18 and was taken into consideration on July 20. In the course of preliminary hearings the financial claims rose by 500,000 AMD (attorney fees), thus making the overall amount 3,500,000 AMD (about \$ 8,600). On November 5, the Court of General Jurisdiction ended the preliminary hearings.

In its November 19 the Information Disputes Council noted that even though the court case was still pending, the parties continue accusing each other by using the media and other platforms, putting the contents of the disputed article as a subject for public debate. Taking into account that the piece did not raise any issue of public significance, but only included thoughts and comments of personal nature, there was no public interest of receiving information about the court proceedings, the IDC stressed. The IDC called on the conflicting parties to limit by finding remedies of the dispute at the courtroom, to show their good will and refrain from imparting redundant publicity to the case before the proceedings would end. In its turn, the IDC abstained from providing opinion about the subject matter of the dispute, since the case was still ongoing, no court act had been adopted, while outside the courtroom the discussions about the conflict were exacerbating (*the IDC opinion is available in Armenian and English at <http://www.ypc.am/expert/In/eng>*).

As of end-2012, examination of the case continued.

OCTOBER 2012

ON OCTOBER 1, the **Media Ethics Observatory** considered the complaint of Anahit Bakhshian, Deputy Director of National Education Institute, regarding the articles, published on the website of **“Chorrord Inknishkhanutiun” daily**: “Benzin Rubo and Anahit Bakhshian” (May 4, 2012), “ ‘Heritage’s’ Conspirator” (June 15, 2012) and “Who Are Those Shrunk into Corner?” (July 5, 2012). According to Anahit Bakhshian, the listed above articles contain insulting and libeling statements in her address.

Since the complaint touched upon both professional ethics and legal matters, the MEO

and the Information Disputes Council came up with a joint expert conclusion.

The joint conclusion noted that since Anahit Bakhshian had not requested a reply or a refutation from “Chorrord Inknishkhanutiun” daily, it would have been reasonable if she made use of this right.

As regards the compliance of disputed articles to ethical norms, the MEO and the IDC held violations of the Code of Conduct of Media Representatives in all three of them. Thus, the articles present some facts about Anahit Bakhshian. Moreover, two of these articles refer to anonymous sources that quote some statements allegedly made by Anahit Bakhshian. At the same time, the newspaper did not make any efforts to get some comments from Anahit Bakhshian herself. In this regard, Article 1.1 of the Code stresses: “Prior to publishing, to check the accuracy of information from any source, not to conceal and not to distort facts (...)”. Article 1.2 highlights the need to mention about the inability of verifying facts for an information of public significance, and Article 1.3 obliges the media “to rely on accurate facts when making analysis and comment”.

Besides, from a journalistic ethics perspective it is not acceptable that the articles used “circulating rumors” as source of information. This contradicts the provisions of Chapter 2 of the Code, “Integrity in Relations with Sources of Information”, the conclusion pointed out.

As regards the legal analysis of the disputed articles, the conclusion stresses that since the limits of critics towards political figures are wider, than in case of private ones, there is an increased level of protection of articles that are of public interest (until recently Anahit Bakhshian was deputy of RA National Assembly). In this sense, the information, published in the “Chorrord Inknishkhanutiun” articles of June 15 and July 5, 2012, “is not of a discrediting nature and even if it turns out that the information is not accurate, the articles cannot be assessed as defamatory”. Meanwhile, the MEO and IDC found that the May 4, 2012 article contained discrediting information, and thus the media had to prove its accuracy.

The MEO and IDC reminded that courts should be a last resort, and one should seek there remedies when all the other measures are exhausted (*the conclusion is available in Armenian at http://www.ypc.am/self_regul/In/en*).

ON OCTOBER 9, the Media Ethics Observatory considered and made an expert judgment on the complaint of Shahen Khachatrian, Director of “Kankor” medical center, regarding some stories of “**Shant**” TV channel. The complaint dealt with the TV reports, aired on “Horizon” news program on October 3, 4, 2012, and on “Sunday Horizon”, October 7, 2012. The stories told about the patient, who was transferred to “Kankor” and passed away later, as well as about the conflict on this matter between the deceased’s relatives and the doctors. Shahen Khachatrian alleged that the information provided in the reports was not accurate and presented false data, while the coverage of the conflict was biased and one-sided.

The MEO judgment noted that the story of “Horizon”, October 3, presented only the victim’s position, therefore the coverage was one-sided. This ran counter the Articles 1.1 and 1.3 of the Code of Conduct of Media Representatives: “prior to publishing, to check the accuracy of information from any source, not to conceal and not to distort facts (...)”, and “to rely on accurate facts when making analysis and comment”. Even though, the subsequent TV stories showed some pieces from Shahen Khachatrian’s press conference,

the MEO found that, overall, the parties to the conflict were not provided equal opportunities. This was a violation of Articles 6.1 and 6.4 of the Code of Conduct: “to support the free exchange of opinions, regardless of any differences between such opinions and the editorial views”, and “to encourage the public to express their criticism of the media and to be ready for a public discourse on matters of journalistic ethics”. Since one of the parties to the dispute was a journalist of “Shant” (the deceased patient was his father), there was some conflict of interests and abuse of position by the media outlet, the MEO stressed. As a result, the public perception on the issue’s significance could be distorted. Therefore, the judgment noted that it would be reasonable if the employee of “Shant” and the TV channel sought other means of covering the issue, say, on another - neutral - media.

Later, the MEO concerns about the possible bias in the coverage of “Shant” were confirmed. On October 9, after the MEO session, the TV channel aired a story about a press conference of doctors regarding the incident at “Kankor”. In its comments to the story, the TV company, specifically mentioned that it would further cover the numerous complaints that it received against Shahen Khachatryan. This only reinforced the impression that “Shant” did not limit itself by the objective coverage of the issue, the MEO stressed.

Reminding that courts should be a last resort, the MEO recommended Shahen Khachatryan to refrain from filing a lawsuit, and suggested “Shant” provide the Director of “Kankor” medical center with a right to reply, in terms prescribed by the law, i.e., with no comments, or release the given judgment on its air (*the MEO judgment is available in Armenian at http://www.ypc.am/self_regul/ln/en*).

OCTOBER 14, some Armenian TV and radio broadcasters were deprived of possibility to cover the World Cup Qualification match between Armenia and Italy, being held in Yerevan. YPC asked clarifications from the Football Federation of Armenia (FFA). On the question why the broadcasters were denied accreditation, the FFA President Adviser Arayik Manukian answered that the procedure of accreditation was approved taking into account the requirements of FIFA and UEFA, as well as the limited availability of space for media representatives at stadium. According to Arayik Manukian, the accreditation was administered in line with the priorities defined by the procedure. These priorities stressed that radio and TV companies shall be accredited the last of all. At the same time, the volume of the broadcaster’s audience shall be taken into account, said the FFA President Adviser.

Two national TV channels, “**Kentron**” and “**Yerkir Media**”, were among the ones, which were not accredited for the October 14 football match. The TV channels provided comments regarding the denial on their air.

On October 10, in its news program “Epikentron”, “Kentron” informed that when it requested the Football Federation to explain the reasons for the denial of accreditation, FFA answered: “We want it this way.” In a story about the upcoming match, “Kentron” showed the webpage with the accreditation procedure and cited the clause, which noted that the Football Federation was not bound to provide explanations for the denial of accreditation. “Kentron” also highlighted that the FFA’s accreditation priorities place TV and radio companies among the last ones.

On October 11, in its news program “Yerkirn Aysor”, “Yerkir Media” apologized to its viewers for not being able to fully cover the upcoming Armenia-Italy football match. “The

Football Federation brought different arguments, including the requirements of FIFA and UEFA, its accreditation procedure, which we do not contest,” announced “Yerkir Media”. However, the TV channel stressed that it has been covering all the football events for many years and expressed its bewilderment over the denial of accreditation for one of the most important sport events of the season.

While commenting on the incident, YPC Weekly Newsletter (October 12-18, 2012 <http://www.ypc.am/bulletin/t/45523/In/eng>) stressed: “Meanwhile, one can hardly believe that the country’s largest stadium, “Hrazdan”, is so “small” that there was no space available for accrediting the two national broadcasters.”

ON OCTOBER 23, several Armenian NGOs addressed a letter to the RA Prime Minister Tigran Sargsian, Head of EU Delegation to Armenia Traian Hristea and to Reiner Morell, Ambassador Extraordinary and Plenipotentiary of the Federal Republic of Germany to the Republic of Armenia. The letter concerned the refusal by “Congress” hotel of Yerevan to host the screening of the film “Parada”. The EU Delegation to Armenia and Embassy of Germany in Armenia were the initiators of the film screening.

On October 24, **Yerevan Press Club** released a statement in which it shared the indignation of the Armenian NGOs, assessing the obstacles raised for such public events as a blatant violation of the right to freedom of expression.

“It has been only a year since we appreciated that the practice of refusing provision of premises for political motives has almost stopped. And today, the Armenian society faces yet a new, not less disgraceful challenge - an artificial restriction on disseminating information about issues of diversity and personal freedom.

After 20 years of gaining independence and proclaiming democratic development as the main path for nation building, the Armenian statehood turns unable to ensure the protection of its’ citizens’ rights from intolerance and xenophobia. The “fearfulness” of the management of the halls, which refuse the film screening, can be explained by nothing less than this. In this regard, one should remember the inaction of law enforcement bodies towards the attacks against the “Asparez” Journalists’ Club of Gyumri and the Vanadzor Branch of Helsinki Citizen’s Assembly, which in April 2012 provided their halls for showing films, “disliked” by some people.

It is inadmissible for the authorities, who strive for European standards of constituting the state and public life, to pander to those persons and groups, who assume the right to ban, threat, exercise violence and who dictate their own visions of what others should and should not do”, the statement of YPC stressed.

NOVEMBER 2012

ON NOVEMBER 2, the Court of General Jurisdiction of Lori Region dismissed the case on the lawsuit of Tereza Shahverdian, Dean of Pedagogic Faculty of Vanadzor State Pedagogical Institute, versus **Adrineh Torosian, correspondent of “Hetq” online**. (“Hetq” was involved in the case as a third party.) The basis for the Court’s ruling was the withdrawal of the lawsuit. At the same time, the Court bound Tereza Shahverdian to pay off the attorney costs of the plaintiff in the amount of 185,000 AMD (\$ 450). The matter of the protracted litigation that had started on December 5, 2011, was the piece “Unhealthy Passions at Vanadzor Pedagogical Institute”, published in “Hetq” on May 13, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011,*

http://www.ypc.am/about_freedom/in/en).

ON NOVEMBER 8, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan started hearing the lawsuit lodged by Armen Darbinian, Rector of Russian-Armenian (Slavonic) University, versus the “**Center for Political Studies**” LLC, founder of “**National Idea**” online daily. The plaintiff contested some statements as contained in the article, “Armenchik Darbinian Does Not Like to Pay and Why Does He Have To, If He Enjoys Government Protection?”, placed on www.n-idea.am on August 16, 2012. Armen Darbinian demanded compensation of moral loss caused by libel and insult in the amount of 4 mln AMD (about \$ 9,700).

As of end-2012, the Court continued the hearings on the lawsuit.

ON NOVEMBER 21, the Court of General Jurisdiction of Ajapnyak and Davitashen Administrative Districts of Yerevan dismissed the lawsuit lodged by Gevorg Asatrian, Director of “Golden Pomegranate Holding” LLC, versus Ashot Khachatrian and “**Yerevan**” TV company. The plaintiff contested some statements by Ashot Khachatrian, made on the TV show “In Open Daylight” of “Yerevan” TV channel, broadcast on July 29, August 4 and 9, 2010. The lawsuit on protection of honor, dignity and business reputation was submitted into consideration on October 4, 2010. The plaintiff demanded refutation, apologies and release of the court ruling on the TV show “In Open Daylight”, as well as compensation for moral loss of 199,999 AMD (about \$ 490). The hearings on the case started on November 16, 2010.

ON NOVEMBER 23, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan granted the lawsuit lodged by the **Freedom of Information Center** against the “Environmental Project Implementation Unit” state agency of the RA Ministry of Nature Protection. On May 29, 2012, the FOI Center requested the state agency to provide information about the bonuses their employees had received within 2011. The state agency sent an incomplete answer, and on June 20, the FOI Center re-sent the inquiry. On July 2, the “Environmental Project Implementation Unit” provided the general information about the bonuses, however it refused to mention how much each employee received invoking non-disclosure of confidential personal data. On July 24, the FOI Center went into law. The case was submitted into consideration on July 27, the hearings started on October 8.

On November 23, the Court ruled to bind the “Environmental Project Implementation Unit” with providing the information in full and paying off the attorney costs of the FOI Center of 63,500 AMD (about \$ 150). On December 12, the respondent appealed this ruling at the upper court instance. As of end-2012, the RA Court of Appeals has not examined the complaint.

It has to be noted that the FOI Center filed another lawsuit on the same matter versus the “Environmental Project Implementation Unit” with the RA Administrative Court, demanding to impose a fine of 30,000 AMD on the employee of the Ministry of Nature Protection, who was responsible to provide the information and failed to do it. At the hearings that started on November 9, the Administrative Court decided to suspend the examination of the case until the Court of General Jurisdiction would rule on the abovementioned dispute. As of end-2012, the hearings have not resumed.

DECEMBER 2012

ON DECEMBER 7, the Court of General Jurisdiction of Arabkir and Kanaker-Zeytun Administrative Districts of Yerevan secured the lawsuit lodged by the Women’s Resource Center NGO versus “**Zaruhi’ Publishing House**” LLC, founder of “**Zaruhi**” woman magazine, and the magazine’s **observer Ruslan Tatoyan**. The matter of the lawsuit was the article by Ruslan Tatoyan “Family Destroyers”, published on www.zaruhi.com on March 21, 2012. According to the plaintiff, the article discredited its business reputation. The Women’s Resource Center demanded public apologies, compensation of moral loss of 500,000 AMD (about \$ 1,250), as well as publication of the court ruling on www.zaruhi.com. The Court submitted the lawsuit into consideration on April 27 and started the hearings on July 17.

On December 7, the Court ruled to bind the respondents with bringing public apologies and paying off 50,000 AMD to the plaintiff, and dismissed the claim on publishing the court ruling in the magazine’s website. On December 28, the respondents contested the ruling of the Court of General Jurisdiction at the RA Civil Court of Appeals. As of end-2012, the Court of Appeals has not examined the application.

ON DECEMBER 14, the Court of General Jurisdiction of Ajapnyak and Davitashen Administrative Districts of Yerevan dismissed the lawsuit of “Arrhythmic-Cardiological Center of Armenia” LLC (ACCA) versus the **founder of online news agency News.am, “Media Consult” LLC** (now - “**News.am**” LLC). The reason for going into law became the article “The Patient with a Diseased Heart Was “Puffed” at the Arrhythmic-Cardiological Center and Has Been Implanted with Another Device”, stored on News.am on November 23, 2010. The article told the story of the reader H.K., who alleged that he had been cheated at the Cardiological Center, since the doctors had implanted an electric cardio stimulator, cheaper and with a shorter warranty period than the one he had been promised before the surgery. The plaintiff demanded to refute the information that discredited his honor, dignity and business reputation, as well as to compensate the moral loss in the amount of 2 million AMD (about \$ 5,500). The hearings on the case started on February 4, 2011 (*for details see Yerevan Press Club Report “On Freedom of Speech in Armenia” in 2011, <http://www.ypc.am/about/freedom/ln/en>*).

The Court dismissed the lawsuit versus News.am for absence of grounds, and particularly stated that the respondent was exempt of liability, since the disputed article contained a reference to the information source and was a verbatim reproduction from it. Besides, the Court stressed that the one-month term defined by law for submitting the lawsuit was missed. The Court bound the ACCA to pay off the state duty (44,000 AMD) and the respondent’s costs for the attorney (200,000 AMD).