

**FREEDOM OF INFORMATION CENTER OF ARMENIA**

**YOU HAVE A RIGHT TO KNOW**

**b u l l e t i n N 3 7**



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## A Photo Exhibition on Free Speech and Information Marks Press Freedom Day in Armenia

In 1993, valuing the development of free and unbiased press and its role in establishing and developing democratic societies, the United Nations General Assembly declared May 3 as the World Press Freedom Day.



**T**he Freedom of Information Center NGO organized a photo exhibition entitled "Freedom of press: the right to know" at the Armenian Artists' Union on May 3, 2012 to mark the World Press Freedom Day. The event was a unique action to draw the public attention once again to freedom of press and information problems.

The opening ceremony was attended by officials, public figures, journalists, diplomats and others. EU Delegation to Armenia, Ambassador H.E. Mr. Traian Hristea welcomed those present and valued the exhibition as a unique way to present public perceptions on freedom information and press. "Today. We are celebrating the Freedom of Press Day," Mr. Hristea said, "The European Union has always supported freedom of expression and opinion since this is part of fundamental human rights. I would like to take this opportunity and value the work of journalists around the world who sometimes risk their lives while exercising their right to freedom of expression."

U.S. Ambassador to Armenia H.E. Mr. John Heffern commended the organizers and valued the role of free press and access to information for a well-functioning democracy. Ambassador Heffern encouraged the Freedom of Information Center of Armenia to continue the successful efforts in promoting transparency and accountability of public institutions.

Ambassador Mr. Andrey Sorokin, Head of the OSCE Office in Yerevan emphasized the role of freedom of press and information in formation of open and accountable government. "I hope today's exhibition will remind the Government, the media and the society what is the role of each of them in exercising the freedom of expression and information."

President of the Freedom of Information Centre Shushan Doydoyan said, "This is a special exhibition since everybody including citizens, journalists, professional photographers had the opportunity to present his or her works. Heroes depicted in these photos voice their disagreement with the violence against the freedom of press as well as try to exer-

cise their right to access information despite in any obstacles and barriers they face."

The photo exhibition was participated by photographers, cartoonists, journalists, students ad others who presented over 200 photos and caricatures, of which the jury selected 50 photos and 20 caricatures to demonstrate at this exhibition. The main subject of the photos was freedom of press and information. All exhibited photos and caricatures are published in the photo catalogue dedicated to the World Press Freedom Day.



Arsen Gevorgyan/DIZO/, "The Editor"

All photos can be viewed at:  
<http://www.foi.am/en/exhibition/>



Gayane Arakelyan, "The First Sample of Armenian Periodical"



Nazik Armenakyan, "From Taking up the Square Series - 1"



Photolur, "The Gibbet"

## Armenia presented the country's action plan in Brazil under Open Government Partnership

The annual meeting of the Open Government Partnership drew 800 representatives and about 200 NGOs from 60 member countries. U.S. State Secretary Hillary Clinton, Georgian Prime Minister Nika Gelauri, President of Tanzania Jakaya Kikwete, and President of Brazil Dilma Rousseff made remarks presenting the key issues of this large scale initiative and further actions to be taken.

Then the groups of member countries presented their action plans and their commitments to the open government to be implemented during 2012-2014. The three countries involved in the South Caucasus group, Armenia, Georgia and Azerbaijan, presented their detailed action plans. Ashot Hovakimyan, RA Deputy Foreign Minister and head of the Armenian OGP working group spoke about the main goals, directions and responsibilities of the RA action plan. He emphasized that the decision to join the "Open Government Partnership initiative expresses Armenia's willingness to ensure more transparency and accountability while delivering public services. Rule of law and strengthening the efficient governance is the state's priority; and the Armenian authorities have had a number of accomplishments over the recent decade." The main provisions of Armenia's actions are focused on improvement of the efficiency, transparency and accountability of the public government system in the country: enhancing the efficiency of management of public resources, developing electronic management, improving the procurement process and providing transparency thereof, improving the freedom of and access to information, publicizing the declarations of property and incomes of officials, fight the corruption, etc.

Expert of the Freedom of Information Center and member of the OGP Armenian working group Liana Doydoyan informed those present that the Armenian working group of action plan development has involved 8 representative of the civil society, and all their proposals were incorporated in the document. "The Freedom of Information Center, in particular, had suggested to include over 10 points in the two-year program of Open Government basic-



ly covering the improvement of the content of official websites and the information published therein, knowledge and skills of officials in the freedom of information domain, ensuring the publicity of declaration of the property and incomes of officials, and others," Liana Doydoyan says.

Action plans of Georgia and Azerbaijan were presented by the Georgian Deputy Ministry of Justice Giorgi Vashadze and Azerbaijani Minister of Communication and Information Technologies Ali Abasov, respectively. Both countries had sent quite large official delegations to Brazil. The Georgian delegation led by the Prime Minister of that country was among the most representative ones. The Azerbaijani official delegation consisted of 15 members.

The Georgian Deputy Justice Minister stated that Georgia will apply the so called one window princi-

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ple while delivering public services: people will attend to one united center for all necessary documents and transactions. Azerbaijan's program included 21 pages, which was twice more than required. The document included control of corruption and criminal offences, measures focusing stimulation of public government, etc. Following the Minister's speech, representative of the National Budget Group NGO Galib Abaszade criticized Azerbaijan for corruption, and the criticism was negatively reacted by the Minister and other Azeri officials present.

To the question by the Head of Asparez Journalist Club Levon Barseghyan about what agencies or departments will be responsible for implementation of the action plans in the three countries, the RA Deputy FM Hovakimyan answered that different departments will be implementing those actions; the Georgian Deputy Justice Minister gave a similar answer, and the representative of Azerbaijan explained that a particular ministry or department will be involved in each section of the program, while the overall leadership is given to the country's president.

Representatives of civil society, in turn, attached importance to the further implementation of the action plan and the civil control over these commitments of the authorities.

The Open Government Partnership was launched in September 2011, by the initiative of 8 countries (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, the United Kingdom and the United States). Over 60 countries have now joined the initiative. The Republic of Armenia became a member in November 2011. The OGP Declaration reads that it is aimed to make the governmental activities more public, promote the society's participation in the governance of public life, and have more transparent and responsible authorities.

The Action Plan of Armenia is available at:  
[http://mfa.am/u\\_files/file/OGPAP\\_Armenia\\_English.pdf](http://mfa.am/u_files/file/OGPAP_Armenia_English.pdf)

## 316 Community Servants Received State Certificates

In 2011-2012, 316 community servants have been trained in the Freedom of Information Educational Center.

Since March, 2012 Freedom of Information Educational Center has restarted its training courses, where community servants from the regions of Kotayk, Aragatsotn, Ararat participated. The trainings are held with the training program "Interpersonal Relations, Freedom of Information and Public Affairs in the Local Self-Government System", established by the 20 October, 2011 N 129-I order of the RA Vice Prime Minister, Minister of Territorial Administration Armen Gevorgyan.

Each training lasts for 3 days. Upon graduation the participants are given state certificates accredited by the Ministry of Territorial Administration, Freedom of Information Center of Armenia and the Union of Armenian State Employees.

"The training was extremely instructive. It is desirable that at least on a yearly basis we become aware of the important developments in the freedom of information field so that we are able to consider ourselves full-fledged community servants and be helpful to the community population", it is with these words of satisfaction that Lori Marz (region) community servants departed following the training held in the Education Center of the Freedom of Information Center.

As of 16 May 2012, 316 Community Servants from urban and rural communities of Kotayq, Ararat, Aragatsotn and Lori Marzes have taken part in the three-day training held at the Freedom of Information Center's Education Center.

The training course was a great satisfaction to all participants, who expressed readiness to once again pass such training with the non-formal education center of the Freedom of Information Center. The trained community servants noted in their eval-

uation sheets: "The training workshops were very useful and henceforth we will not only apply but also use the Freedom of Information Law, since many issues can be clarified through the right to freedom of information", "was useful and instructive", "it was interesting, I will try to apply the knowledge gained in practice", "we received a lot of new and effective knowledge".

87% of the community servants having participated in the training course assessed the course as very useful, 13% - useful. All participants - 316 community servants, gave positive answer to the question on whether they feel it is necessary to further update their knowledge in the topic covered by the training and whether they will apply their knowledge in their every-day work.

To note, the community servants who took part in the training, received state certificates. Until 2013 the Freedom of Information Education Center will train another 84 community servants.

Freedom of Information Educational Center was founded on 22 November, 2010 by Freedom of Information Center of Armenia in the framework of the "Access to Information for Community Involvement" project financed by USAID Armenia.

## Advocacy for Access to Information - Achievements and Challenges

Access to Information Programme (AIP) held the Conference Advocacy for Access to Information-Achievements and Challenges on June 15-16, 2012 in Sofia, Bulgaria. The conference was dedicated to AIP 15 years' advocacy work in the field of access to information.



**G**ergana Jouleva, AIP Executive Director, opened the conference Access to Information Programme (AIP) held the Conference Advocacy for Access to Information – Achievements and Challenges on June 15-16, 2012 in Sofia, Bulgaria.

Among the panelists were Liana Doydoyan and Gevorg Hayrapetyan, representatives of Freedom of Information Center of Armenia; Toby Mendel, Director of the Center for Law and Democracy and current chairperson of the Freedom of Information Advocates Network Steering Committee; Helen Darbishire, Director of Access Info Europe, and Tony Bunyan, Director of Statewatch. Also, representatives of leading nongovernmental organiza-

tions in the field of access to information from Cyprus, Georgia, Macedonia, Poland, Russia, Romania, and the Czech Republic took part. More than 50 representatives of media, partner NGOs and state institutions from Bulgaria attended.

Latest developments with regard to the proposed amendments to the Regulation (EC) 1049/2011 related to access to documents of the EU bodies were reviewed and standards set forth by international treaties and bodies were presented. The impact of the monitoring of proactive publication of information by government bodies for increasing government transparency were discussed.

NGOs and journalists shared tactics in using the access to public information for campaigns and public participation and for journalistic investigations. Results from FOI legal help and litigation were presented. Raising awareness campaigns and more particularly, the Right to Know Day campaign, were presented as a successful advocacy tool. The role of the FOI advocates in the Open Government Partnership and possibilities for future initiatives was discussed.

Conclusions drawn and outlined strategies will be included in a final document which will be sent out to the Freedom of Information Advocates Network.

*See more: Access to Information Programme website: <http://www.aip-bg.org>.*



## FOICA vs. Ministry of Emergency Situation

On May 21, 2012, the first court hearing took place, when the RA Ministry of Emergency Situation provided the whole requested information. As a result an agreement was signed between the FOICA and the Ministry of Emergency Situation.

**F**reedom of Information Center of Armenia applied to the court asking to oblige the RA Ministry of Emergency Situation to provide the requested information within five days and to impose an administrative fine of 50,000 AMD on the Minister of Emergency Situation Armen Yeritsyan.

On February 7, 2011, the Freedom of Information Center sent an information request to the RA Ministry of Emergency Situation asking to provide the following information:

1. Does the Ministry have any documents that were declassified in 2010?
2. If yes, please, provide copies of those documents.

The Ministry of Emergency Situation made a reference to the RA Special Investigatory Service(SIS), noting that the requested documents were confiscated by the SIS. However, the Special investigatory Service informed the Freedom of Information Center that the copies of the confiscated documents were left in the Ministry of Emergency Situation. In other words, the Ministry of Emergency Situation is considered to be the information holder.

Thus, on March 29, 2011, the Freedom of Information Center once again sent an information request to the Ministry asking to provide the above-

mentioned information, but this time the FOICA's request was left unanswered. The Ministry left unanswered the FOICA's requests dated on May 25, 2011, and October 20, 2011.

As a result, Freedom of Information Center of Armenia applied to the court asking to oblige the RA Ministry of Emergency Situation to provide the requested information within five days and to impose an administrative fine of 50,000 AMD on the Minister of Emergency Situation Armen Yeritsyan.

On May 21, 2012, the first court hearing took place, when the RA Ministry of Emergency Situation provided the whole requested information. As a result an agreement was signed between the FOICA and the Ministry of Emergency Situation.

## FOI MONITORING

### Freedom of Information in Municipalities - 2012

The FOICA received 34 complete responses, out of 49 requests sent to the Municipalities. 22 out of complete responses were provided in time and 12 - with violation of the defined timeframes. In response to 6 out of 49 requests, the municipalities have provided incomplete responses and 1 response was invalid. 8 requests have remained unanswered.

In February 2012 the Freedom of Information Center submitted written information requests to the Heads of 49 cities of Armenia (including Yerevan Municipality), requesting information on the funds (expenses) envisaged for and allocated in 2001 and 2012 for snow-cleaning works in those cities. This initiative of the FOICA provided with an opportunity to find out how the Heads of city communities representing various Marzes (regions) implemented the Law on Freedom of Information. We have analyzed the answers provided by municipalities in accordance with 2 criteria: completeness of the responses and timelines of their provision.

#### **Content of the Responses**

The Freedom of Information Center received 34 complete responses, out of 49 requests sent to the Municipalities. 22 out of complete responses were provided in time and 12 - with violation of the defined timeframes. In response to 6 out of 49 requests, the municipalities have provided incomplete responses and 1 response was invalid. 8 requests have remained unanswered.

The author of the invalid response was the municipality of Tumanyan. The response was deemed invalid since it included data having nothing in common with the content of the request (see response here: <http://givemeinfo.am/hy/case/854/>). The Freedom of Information Center sent a repeated request to Tumanyan municipality requesting to provide relevant information. Eventually, the Tumanyan municipality provided complete response to the FOICA's second request without violating timeframes.

Incomplete responses were provided by the municipalities of Artashat, Vedi, Abovyan, Nor Hachn, Akhtala and Gyumri. These municipalities had provided the requested information to the FOICA only partially. The FOICA applied to the Head of Municipalities requesting to provide the missing information. The municipalities of Vedi and Nor Hachn provided timely and complete responses to the repeated request and Artashat, Abovyan, Akhtala and Gyumri municipalities have left the repeated requests unanswered.

As noted, 8 requests submitted by the FOIC remained unanswered. The municipalities of Vardenis, Yeghvard, Vanadzor, Stepanavan, Spitak, Sisian, Goris and Noyemberyan did not reply to FOICA's requests. Repeated requests were sent to these bodies as well, requesting to provide information demanded in the first requests. As a result, the municipalities of Stepanavan, Sisian, Goris provided timely and complete replies and the municipalities of Yeghvard and Spitak provided late complete replies. Noyemberyan municipality provided invalid reply in response to FOICA's repeated request. The reply was deemed invalid since it included information which was different from what was requested (see response here: <http://givemeinfo.am/hy/case/916/>).

Vardenis and Vanadzor municipalities have left the Freedom of Information Center's repeated requests unanswered as well. It is only these two municipalities that have not reacted in any manner following the submission of a repeated request by the FOICA. The municipalities of Vardenis and Vanadzor have been included in the Freedom of Information Center's quarterly Black List for 2012.

### **Analysis of the Responses as per Timeframes**

According to point 7 of Article 9 of the RA Law on "Freedom of Information", a response to a request for information should be provided within 5 days following the receipt of such request. The FOICA has sent the requests via post. Hence, the response has not been considered late if it was provided within 9 calendar days, out of which 5 days period is the timeframe defined by law, 2 days are calculated for postal delivery and the remaining 2 are the non-working days - Saturday and Sunday. In any case, in order to avoid inaccuracies, the timeframes have been calculated based on the day when the requests were actually sent out and the date of sending the response back, as indicated on the stamp of the postal service marked on the envelope carrying the response.

As noted, in 34 cases the municipalities have provided complete responses. Out of these 34 responses, 22 were provided in time and 12 – with delay. The invalid response by Tumanyan municipality was provided without violating the deadline (<http://givemeinfo.am/hy/case/854/>).

The complete response to the repeated information request was also provided by the municipality without violating the deadline (see response here: <http://givemeinfo.am/hy/case/892/>).

4 out of 6 incomplete responses were provided within the timeframes defined by law and the other 2 were provided with delay (Artashat and Gyumri municipalities). Amongst the repeated requests sent to the authors of incomplete responses, 2 have been answered, both without violating the deadline. As noted, 2 of the repeated requests sent to the 8 authors of mute refusals have remained unanswered. 4 answers to the remaining 6 requests were provided in a timely manner (3 complete and 1 invalid response) and the other two - with violation of the deadline.

So, out of 49 requests sent by the FOICA, 41 have been answered, of which 27 have been provided without violating the deadline and 14 have been late responses. Out of 15 repeated requests 9 have been answered, of which 7 responses were provided in a timely manner and 2 - by violating the deadline.

Thus, out of the total number of 64 requests (FOICA's first and repeated requests) 50 have been answered, out of which 34 were provided in a timely manner and 16 were provided with a delay.

From the point of view of timeliness, the best results were shown by the municipalities of Talin, Tchambarak, Byureghavan and Tashir, which provided complete responses after 3 days following the sending of the request. Amongst the best is also the municipality of Meghri, which has provided complete response after 4 days following the sending of the request. The worst results come from the municipalities of Alaverdi and Yerevan, which have responded after 29 and 27 days respectively, following the FOICA's requests.

## First IDC Workshop with Journalists and Lawyers

Resolving cases of defamation and insult without resorting to the courts is the focus of a two-day OSCE-supported workshop for journalists and lawyers that started on June 30 in Aghveran, Armenia.



The event, organized by the OSCE Office in Yerevan and the Armenian Freedom of Information Centre, aims to inform journalists and lawyers about the work of the Information Disputes Council (IDC) as an extra-judiciary body that can solve media-related disputes. The IDC was established in May 2011 in response to a significant increase in the number of defamation court cases against the media.

“While civil society reports show a considerable decrease in the number of defamation and insult cases this year, it remains important that local and international stakeholders continue to monitor the situation and advocate for improvement. In supporting the activities of the IDC, we backstop mechanisms for out-of-court dispute resolution, and promote ethical journalism which will ultimately have a positive effect on the overall quality of the media landscape,” said Oliver McCoy, Democratization Programme Officer at the OSCE Office in Yerevan.

The mandate of the IDC is to protect freedom of speech and improve access to information, as well as to protect human dignity and the right to a private life by publishing expert opinions and recommendations based on Armenia’s Constitution, international legal acts and ethical norms, in cases when judicial disputes occur.

Shushan Doydoyan, the Head of the Freedom of Information Centre, and a founding member of the IDC, added: “In some cases the IDC rings a bell when problematic legal issues arise for media freedom, as was the case with the decision of the Court of Cassation regarding the definition of news sources. The IDC also serves as an alternative, unbiased body for media-related dispute resolution. The decisions of the IDC can also have a preventive impact when parties to a dispute try to solve their dispute without the court’s involvement”.

The workshop introduced and elaborated on the opinions prepared by the IDC, as well as reviewed court cases related to defamation and insult. By analyzing litigation and highlighting the role of the IDC, the organizers hope to promote improved protection for free speech in Armenia pursuant to OSCE commitments.

## The Expert Conclusion of the Information Disputes Council N 7

About the court case "Religious Organization "Word of Life" and the Head of Organization Arthur Simonyan vs. "Iravunk Hetaqnnutyun" (Law and Investigation) and "Argumenti Nedeli v Armenii" Periodicals.

The lawyer of the Religious Organization "Word of Life" Church of Evangelical Christians of Armenia has applied to the Information Disputes Council, requesting to provide opinion on the lawsuit filed by the organization on 18.11.2011 against "Iravunk Hetaqnnutyun" and "Argumenti Nedeli v Armenii" weeklies. Examining the case, the Information Disputes Council publishes its professional conclusion.

In October 2011 the afore-mentioned media published articles and photographs, which, according to the Religious Organization "Word of Life" Church of Evangelical Christians of Armenia are of insulting and defamatory nature. In particular insulting are titles of the articles "история с сектантством и порнухой" ("Story with sectarianism and porn") and "The Theme of Sect-Mixed Photos "Bloomed" with Pedophile Charges"; and the prescription of the word "sect" to the religious organization. The religious organization has deemed the titles of articles defamatory since with these titles a statement of fact is being made that the religious organization, with its belief and activities, propagates immoral values - pornography, as well as dissemination of pornographic materials, perpetration of pedophilia and sponsorship of such acts, as well as that Angela Sargsyan is a member of the religious organization, etc.

In addition, the religious organization has deemed insulting and defamatory the photos edited through a computer programme, which, in the opinion of the claimants, create the impression that the members of the organization resort to the same behaviour as attributed to the woman in the photographs disseminated by the media - actress Angela Sargsyan.

The Religious Organization "Word of Life" and its Head Arthur Simonyan have submitted a lawsuit against "Iravunk Hetaqnnutyun" and "Argumenti Nedeli v Armenii" periodicals, requesting that the court obliges the media to publicly apologize and publish the court verdict on the grounds of insult; to publish refutation on the grounds of defamation and to charge 36000 AMD from the respondents as a compensation - 4000 AMD as a state duty and 32 000 AMD for translation and notary related expenses incurred.

The Information Disputes Council finds that the dispute under discussion touches upon the media's right to free expression from the one side and the public right to the freedom of thought, conscience and belief, on the other.

The word "sect" with its usual, daily applicable connotation can disturb, shock and in this sense be deemed as unacceptable for some religious groups. However, this circumstance is still not sufficient to claim that the media have circumvented the permissible limits of criticism, in accordance with today's democratic principles. Essential here is the context in which the word "sect" has been used. In this sense the Council finds that while the word "sect" itself does not contain a derogatory meaning, its continuous and accentuated use in light of the general context of the two articles is problematic.

**The Council finds** that when expressing their assessments, opinions and judgments about the religious organization and the ideas it advocates, the media did not have factual data but based on just one factual data, i.e. a third party statement, with a number of generic and abstract conclusions and judgments stemming from this statement. And when factual circumstances are missing, the legal position of the Constitutional Court comes to the

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forefront stating that when factual data are absent, the intention to harm dignity becomes evident. The presence of this criterion is essential for deeming a statement as insulting and defamatory.

**The Council has assessed** as well the photos accompanying the articles. Although as caricatures they are considered as a way of free expression and are under the protection of free speech, however the absence of factual data in the substantial part of articles makes meaningless the provocative depiction of the organization's attributes and its leader. As a result, such way of caricature presentation could insult the religious feelings of the members of the religious organization.

**The Council finds** that the general context of the article and the continuous and persistent use of the word "sect" therein transforms the information item into a speech cultivating or inciting religious hatred.

**The Council finds** as well that the facts of the case utterly provide with an opportunity to resolve the case through extra-judiciary means and calls on the parties to use this opportunity.

***Information Disputes Council***

***May 11, 2012***

***see more: <http://www.foi.am/en/IDC>***

## The Expert Conclusion of the Information Disputes Council N8

About the Court Case attorney A. Grigoryan vs. "Hraparak" daily.

On 07 March 2012 the First Instance Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan made its verdict on the application submitted by attorney Arthur Grigoryan against "Hraparak" daily, expressing its legal position over a number of problematic issues, which are currently subject of the journalistic communities' discussion in various countries. The subject matter pertains to the scope of protection of information flows from social networks to the traditional media field, in circumstances where due to the development of media technologies, online media are in active conjunction with the print media. Taking into account the importance of the issue, the Council, on its own initiative, presents its comments on the positions expressed by Court:

The application with regard to the afore-mentioned case was submitted following six comments made by a group of readers in response to an article published on "Hraparak"'s website, which, in the opinion of the plaintiff, contained insulting and defamatory statements. Since the persons having made comments were unknown, the application was filed against the media outlet, despite the fact that the problematic statements were not made by the media outlet.

In the justification part of its verdict the court has defined that since the plaintiff, before applying to court, did not demand that the media outlet deletes and removes comments, the media outlet then could not bear the responsibility of removing comments authored by other persons since by resorting to this it would have limited its readers' right to free expression, which is an interference to the right to freedom of speech, that is not necessary in a democratic society. The Court continued its conclusions by finding that since the authors of the comments were other persons and the media outlet has only provided with a forum for these comments, as well as since the media outlet deleted and removed the

afore-mentioned comments after some time, there was no intention of the media outlet to insult or defame.

The Information Disputes Council welcomes the verdict issued by the Court on the present case, since the above-mentioned stance of the Court significantly enlarges the scope of protection of electronic media. At the same time the Council finds that it would be desirable if in its decision the Court would have touched upon other important aspects of the subject matter as well. The study of the international law and practice shows that when examining media related cases the Courts and the regulating legal norms consider such circumstances as the media's awareness of the comments and the distinct moderation of comments .

In other words, it is important to take into account whether the media outlet is distinctly moderating the flow of comments placed on its news portal. Factual circumstances like, for instance, application of searching systems by the media through key-words, providing the readers with a possibility to underline insulting and defamatory comments, prior selection of comments subject to publication by the media outlet (alternatively, introduction of some editorial activities) serve as an assessment feature in order to consider the fact of the media outlet's moderation of reader comments as confirmed, which in its turn serves as a basis when deciding the issue of a media outlet's liability.

In this case the Court has taken into account the fact that before applying to court the plaintiff did not request the media outlet that problematic comments be removed and hence the media outlet was not made aware of the presence of comments with insulting and defamatory nature on its platform, however the court did not examine at all the availability of the second circumstance mentioned above, i.e. to what extent the media outlet moderat-

ed (administered) the flow of comments on its electronic page. The Council finds that such scope of the court's fact-checking does not ensure possibility for effective legal protection. Moreover, such legal regulation contradicts point 9 of Article 1087.1 of the Civil Code, according to which if the information source is unknown, the responsibility for compensation shall be held by the presenter of insulting and defamatory statement in public. In this case the authors of the comments were not known however to an extent that the comments were publicly disseminated from a domain provided by the media company, that company automatically becomes subject to legal relations. From this point of view the Council does not agree with the position of "Hraparak Daily" LLC expressed during court procedure, according to which the company does not bear any responsibility for the others' comments published on its website, as long as they flow from social networks and do not belong to the content producer. According to part 2 of Article 10 of the European Convention, the right to receiving and disseminating information and ideas is linked with obligations and responsibilities. Along with the right to free speech, everyone also has certain responsibilities. The notions of rights and responsibilities walk hand in hand. This format continues remaining unchanged, even in the current world of rapid development of media technologies. Hence, the very fact that the media outlet provided a technical platform for the others' comments does not make the media exempt from obligations and responsibilities.

**The Council finds** that when being guided with the afore-mentioned legal regulation, a reasonable balance will be achieved between public and individual rights, the right to freedom of expression and the right to human dignity.

Considering the afore-said, the Council

- Finds that the legal positions expressed in the Constitutional Court's decision No. ՄԴՈ 997 is equally applicable also for the "comments" disseminated from the platforms of electronic media;
- Calls on all media to moderate reader comments, in light of the popular principles of the right to freedom of expression;
- Calls on the electronic media to develop and place on their electronic pages, rules of moderation, to make them easily accessible for readers and thereby make the moderation rules' application clear and transparent.

***Information Disputes Council***

***30 May, 2012***



## Black List, 1st and 2nd Quarters of 2012

These officials have violated the people's access to information right during the 1st (January-March) and 2nd (April-June) quarters of 2012.

### 1st quarter of 2012

- **Volodya Khloyan - Mayor of Vardenis**

On February 21, 2012, the Freedom of Information Center sent an information request to the Mayor of Vardenis asking to provide information about the money allocated and provided by Vardenis city budget for snow cleaning works. The Mayor of Vardenis left the FOICA's request unanswered. Thus, on March 15, 2012, the FOICA sent the second request with the same content. But the second request also was left unanswered.

- **Samvel Darbinyan - Mayor of Vanadzor**

On February 21, 2012, the Freedom of Information Center sent an information request to the Mayor of Vanadzor asking to provide information about the money allocated and provided by Vanadzor city budget for snow cleaning works. The FOICA's request remained unanswered. Thus, on March 15, 2012, the FOICA sent the second request with the same content. But the second request also was left unanswered.

### 2nd quarter of 2012

- **Mr. Serge Sargsyan - President of the Republican Party of Armenia**

On May 25, 2012, the Freedom of Information Center sent an information request to the Republican Party of Armenia asking to provide information about the event organized by the Republican Party on May 4, 2012, at the Republic Square in Yerevan. The Party has left unanswered the FOICA's information request. Thus, the FOICA sent the second information request, which also was left unanswered.

- **Mr. Aram Sargsyan - President of the Democratic Party of Armenia**

On April 25, 2012, the Freedom of Information Center of Armenia sent an information request to the Democratic Party of Armenia asking to provide information on finances spent for pre-electoral campaign. The Party has left unanswered the FOICA's information request. Thus, on May 16, 2012, the Freedom of Information Center sent the second information request to the Democratic Party of Armenia. The FOICA's second information request also was left unanswered.

- **Mr. Gagik Tsarukyan - President of the "Prosperous Armenia" Party**

On April 25, 2012, the Freedom of Information Center of Armenia sent an information request to the "Prosperous Armenia" Party asking to provide information on finances spent for pre-electoral campaign. The Party has left unanswered the FOICA's information request. Thus, on May 16, 2012, the Freedom of Information Center sent the second information request to the "Prosperous Armenia" Party. The FOICA's second information request also was left unanswered.

- **Mr. Levon Ter-Petrosyan - President of the "Armenian National Congress" Pact**

On April 25, 2012, the Freedom of Information Center of Armenia sent an information request to the "Armenian National Congress" Pact asking to provide information on finances spent for pre-electoral campaign. The Pact has left unanswered the FOICA's information request. Thus, on May 16, 2012, the Freedom of Information Center sent the second information request to the "Armenian National Congress" Pact with the same content. However, the second request also was left unanswered.

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