



April 21, 2011

50 days of the Defender: reflection on the right to freedom of expression

Somebody having in mind to silence free speech and dent the independent press, should clearly understand that in difficult days, in case of violation of his rights, he will certainly need journalists and press defense. A journalist humiliating somebody's dignity on order or because of his own impiety, should certainly realize that he/she humiliates the value of the word of the entire journalistic community and weakens the «fourth authority». When at least one person does not have an opportunity to get information or political analysis according to his/her taste and understanding by TV, press or otherwise, this means that the given society faces a serious problem with regard to pluralism and democracy.

As the mediator of political dialogue, as an observer of human rights protection and as a defender in individual cases today I have the following concerns:

- ✓ not to limit journalists' right to free expression because of judicial mistakes
- ✓ not to in fact humiliate any person's dignity because of violation of law and elementary rules of journalistic ethics
- ✓ the state of pluralism especially in the sphere of TV and radio should satisfy every member of our society

Enormous changes made in the 2010 Law of the Republic of Armenia "On Television and Radio" related to the transmission to digital broadcasting, unfortunately did not ensure the legal basis of establishment and activities of non-state operators of digital broadcasting, the regulations of licencing procedures arising from them, the liberalization of broadcasting satellite and some other issues.

In the result of importing legal regulation of transmission to digital broadcasting the number of TV companies lessened, which caused great anxiety both in public and international circles. The necessity of such change was explained by the Government of the Armenia with the existing technical capacities of

digitization of telecommunications. Nongovernmental organizations, instead, raise the question of a necessity of an independent audit of TV frequencies, which was not carried out.

At the same time on the basis of already adopted law, digital broadcast licencing tenders were held, the results of which did not meet the expectations of the part of the society which wanted to see "A1 plus" on air again. Those Television companies, which didn't manage to get a licence, including "A1 plus", are now challenging the results in court.

The tender procedure of providing broadcasting licences and the scarcity of Television and Radio Companies are mainly connected with limited resources of analog broadcast technology. Today, when present technologies makes the digitalization of television and radio broadcasting possible consequently creating the incomparable increase in the number of TV and Radio programs, Armenia only has to invest the new technology and set it to an efficient legal regulation. In that case "A1 plus", "Noyan Tapan", "Gala" and many other TV Companies will be able to carry out broadcasting alongside with implementation of new technologies and proper legal regulation.

With this aim in October 2010 on the initiative of the Defender's Office a working group was created with participation of experts from specialized NGO-s, well-related state agencies, representatives of the Public Council, which had the aim to work out amendments and additions to the Republic of Armenia Law on Television and the Radio. Continuing the activities of the Working Group the package of the legislative amendments related to the regulation of the aforementioned issues is already developed and almost summarized in the result of active discussions during the last 2 months. It will be discussed with OSCE and Council of Europe experts on April 29, 2011.

During the Media Freedom Forum on April 30, 2011, initiated by me, which will host representatives of various media outlets, Working group members and international experts, the results of the elaboration of the Law will be summarized with comments and opinions of all the participants recorded. Afterwards, the works related to the elaboration of the Draft Law on Amendments and Additions on the Republic of Armenia Law on Television and the Radio will be summarized. At the end of May 2011 the Draft Law together with special opinions of the members of the Working Group and opinions of the international experts will be presented to the RA National Assembly.

Being the author of the decriminalization of defamation and insult and its civil regulation I would to like once again express my position. A journalist or any other person should not be subjected to criminal liability for a deceitful or offensive speech; however, there is not a single democratic state, where a

person does not have the right to demand moral compensation for defamation and insult. At this instant, protection of freedom of expression and human dignity depends on proper application by judges of this international standard corresponding legislation.

The RA Law “On the Human Rights Defender” prohibits me to intervene into judicial proceedings; therefore all the pending judicial cases cannot be considered by me. However, aiming to contribute to the protection of journalists in individual cases, during the Media Freedom Forum initiated by me on May 1, 2011 I intend to present a concrete mechanism to feasibly prevent judicial mistakes in regard to freedom of expression cases.

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