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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ARMENIA

Draft law on making amendments and supplements to the "Law on Mass Media" and to the Civil Code of Armenia and the explanatory note

LAW
OF THE REPUBLIC OF ARMENIA
ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE LAW
"ON MASS MEDIA"

Article 1. In Article 3 of Law HO-14-N of 13 December 2003 "On mass media" (hereinafter referred to as "the Law"):

(1) points 1-4 shall be restated as follows:

- "(1) media activities — activities carried out for the purpose of providing information and ideas of public significance to the public on a regular basis and under the editorial responsibility of the implementer of media activities. Within the meaning of this point, the editorial responsibility shall be manifested through exercising effective oversight, which may be expressed by defining the editorial policy, implementing the editorial process or engaging staff or an employee vested with editorial functions;
- (2) mass media (hereinafter also referred to as "media") — any means of communication used to provide information and ideas of public significance to the public on a regular basis under the editorial responsibility;
- (3) implementer of media activities — a legal or natural person, including an individual entrepreneur, whose professional activity is aimed at implementing media activities, and who bears editorial responsibility for the presented content, as well as intends to act as an implementer of media activities.

Within the meaning of this point, the existence of the intention to act as an implementer of media activities may be expressed, *inter alia*, through the circumstances of application of working methods specific to the implementer of media activities, self-awareness, as well as adherence to the rules of professional ethics complying with international standards, including through the existence of self-regulatory bodies, including the circumstances of being a member of a recognised self-regulatory body or having such a

self-regulatory body;

- (4) journalist — a natural person implementing media activities or a natural person engaged by the implementer of media activities in professional activities or activities on a regular basis for seeking, collecting, obtaining, preparing, disseminating, and editing information.";

(2) new points 6-9 shall be added:

- "(6) subject of public awareness — an implementer of media activities that is a member of a self-regulatory body recognised in accordance with this Law or has such a body, as well as meets the requirements prescribed by Article 11 and part 2 of Article 12 of this Law;

- (7) code of ethics — a document on norms of journalism ethics drawn up in accordance with international standards by or with the participation of implementers of media activities, journalists, specialised organisations, civil society representatives (including code of journalism ethics, rules of conduct, code of professional ethics, etc.);

- (8) self-regulatory bodies — collegial bodies or persons engaged by implementers of media activities, established voluntarily by implementers of media activities for ensuring compliance with the provisions of the code of ethics;

- (9) recognised self-regulatory bodies — self-regulatory bodies having obtained certification of conformity as prescribed by this Law."

Article 2. In part 1 of Article 6 of the Law, a new sentence shall be added to paragraph four:

"Accreditation of journalists of subjects of public awareness or journalists that are subjects of public awareness shall be carried out without preconditions defined by the procedure for accreditation of journalists within that body."

Article 3. The Law shall be supplemented with a new Article 6.1:

"Article 6.1. Media Council and recognition of self-regulatory bodies

1. The Media Council shall be a membership-based professional, independent and self-regulated non-commercial organisation formed by representatives of recognised self-regulatory bodies on a voluntary basis. The Media Council shall be considered as established from the moment of its state registration as prescribed by law. State registration of the Media Council shall be conducted by the Agency for State Register of Legal Entities. Besides the documents prescribed by law for the registration of the Media Council, information about the members of the Council shall be submitted as well. The name of the organisation must include the words "self-regulatory organisation" or the abbreviation "SRO".
2. Activities of the Media Council shall be regulated by this Law, the legislation of the Republic of Armenia and its Statute. The Statute of the Media Council shall define the grounds and procedure for terminating its membership.
3. Functions of the Media Council, which shall include, *inter alia*, recognition of self-regulatory bodies and periodic reconfirmation of their status by certifying the compliance of self-regulatory bodies, their operating procedures and codes of ethics with international standards, as well as observance of the requirements of operating procedures, shall be defined by the Statute. The periodicity of reconfirming the status of a recognised self-regulatory body shall be defined by the Statute of the Media Council.
4. The public register of subjects of public awareness shall be maintained by the Media Council.
5. In case of allocating subsidies and grants from the State Budget to implementers of media activities, the condition that an implementer of media activities is a subject of public awareness shall be defined as a mandatory requirement."

Article 4. 1. This Law shall enter into force one month after the day of its official promulgation.

2. Actions conducted before the formation of the Media Council after the entry into force of this Law:

- (1) based on requests submitted by non-commercial organisations registered in the Republic of Armenia and having carried out rights protection activities

in the fields of protection of freedom of speech, freedom of the media during the last 10 years as of the moment of entry into force of this Law, a commission on recognition of self-regulatory bodies and formation of the Media Council (hereinafter referred to in this Article as "the Commission") shall be formed within a period of three months with one representative from each organisation. The notice on submission and examination of requests for the purpose of forming the Commission shall be published on the website of the Ministry of Justice at least 30 days before the deadline for submission of requests;

- (2) the Commission shall develop and publish the model provisions of the code of ethics, model standards for formation and activities of self-regulatory bodies based on internationally accepted standards, as well as the procedure for activities of the Commission within a period of 6 months after its formation;
- (3) after performing the actions prescribed by point 2 of this part, the Commission shall, within a period of one year, on the basis of applications submitted by representatives of self-regulatory bodies, examine the compliance of self-regulatory bodies functioning in the Republic of Armenia, their operating procedures and codes of ethics with the defined standards and requirements, and in case of their compliance, as well as observance of the requirements of their operating procedures, the implementer of media activities who joins that body or has such a body, who concurrently meets the requirements prescribed by Article 11 and part 2 of Article 12 of the Law, will be considered a subject of public awareness. The relevant list shall be drawn up and published by the Commission as a Public Register of Subjects of Public Awareness, which shall be transferred to the Media Council after its formation as prescribed by point 4 of this part;
- (4) within six months after performing the actions prescribed by points 2 and 3 of this part, the Commission shall take all preparatory actions necessary for the formation of the Media Council by representatives of recognised self-regulatory bodies, including convene the founding meeting of the Media Council, in which the representatives of all recognised self-regulatory bodies shall have a right to participate. The founding meeting of the Media Council

shall have quorum, where it is attended by more than half of the persons having the right to participate in the meeting. Activities of the Commission shall terminate from the moment of formation of the Media Council.

LAW

OF THE REPUBLIC OF ARMENIA

ON MAKING A SUPPLEMENT AND AN AMENDMENT TO THE CIVIL CODE OF THE REPUBLIC OF ARMENIA

Article 1. The first paragraph of part 11 of Article 1087.1 of the Civil Code of the Republic of Armenia of 5 May 1998 (hereinafter referred to as "the Code") shall be supplemented with a new point 3:

"(3) the circumstance of application to the self-regulatory body recognised in accordance with the Law "On mass media" by the plaintiff, which is competent to provide a relevant opinion with regard to the given defendant, for mitigating the damage caused to the honour, dignity or business reputation of the plaintiff."

Article 2. Part 13 of Article 1087.1 of the Code shall be restated as follows:

"13. Under the procedure established by this Article, a claim on the protection of right may be filed with the court within one month after the person has become aware of the insult or slander.

Where the person has applied to the self-regulatory body recognised in accordance with the Law "On mass media" which is competent to provide a relevant opinion with regard to the given respondent, the established one-month period shall be calculated after acceptance of the opinion of the relevant self-regulatory body or the expiry of the period defined for examining the application.

The claim defined by this part may be filed with the court not later than within eight months from the moment of the insult or slander."

Article 3. This Law shall enter into force one month after the recognition of self-regulatory bodies and publication of the Public Register of Subjects of Public Awareness by the Commission for Formation of Media Council.

RATIONALE

OF THE ADOPTION OF THE PACKAGE OF DRAFT LAWS ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE LAW "ON MASS MEDIA" AND ON MAKING A SUPPLEMENT AND AN AMENDMENT TO THE CIVIL CODE OF THE REPUBLIC OF ARMENIA

1. Current situation and the need for adoption of the Draft

The role of the press in a democratic society is a vital one. The European Court of Human Rights has underlined on multiple occasions that the press and other media have a special place in a democratic society as "purveyor of information and public watchdog"¹.

The key role of the mass media (regardless of the name, including the press, radio, television and other means of information) in disseminating information about issues of concern to the public in a democratic society has no need to be proven or further justified for a long time. Thus, back in 1979, the European Court of Human Rights noted upon the Decision rendered in *British Sunday Times v. United Kingdom* that "the role of the press is to act as a public "watchdog" (...) it is nevertheless incumbent on it to impart information and ideas on political matters, as well as other matters of public interest. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them (...)".

Thus, in modern democracies the media carry out fundamental political, social, economic, and cultural functions. They cover issues of public interest and have a central role in forming public opinion².

Media play an enormously important role in the protection of human rights. They expose human rights violations and offer an arena for different voices to be heard in public discourse. Not without reason, media have been called the Fourth Estate – an essential addition to the powers of the executive, the legislature and the judiciary³.

¹ CDL-AD(2013)024, Opinion on the legislation pertaining to the protection against defamation of the Republic of Azerbaijan, §22.

² *CDL-AD(2005)032 Guidelines on media analysis during observation missions, prepared in co-operation between the OSCE's Office for Democratic Institutions and Human Rights, the Council of Europe's Venice Commission and Directorate General of Human Rights, and the European Commission, adopted by the Council for Democratic Elections at its 14th meeting (Venice, 20 October 2005) and the Venice Commission at its 64th Plenary Session (Venice, 21-22 October 2005) (Executive summary, para. II).*

³ *CommDH (2011)40, Commissioner for human rights, Ethical journalism and human rights. Issue discussion paper, Strasburg, 2011, page 4.*

Taking into account the utmost important role of the mass media in the life of a democratic society, the international organisations engaged in the protection of human rights emphasise that in a democracy, the media are asked to be **socially responsible**. This implies not only positive expectations (what the media should do) but also a number of responsibilities (what the media should not do) that are necessary to serve better the interests of society⁴. The media self-regulation system is of fundamental significance in the formation of a socially responsible press. As stated in one of its opinions by the European Commission for Democracy through Law (Venice Commission): "principles of responsible media coverage may be defined in the self-regulations."⁵.

In this context, the media self-regulation system is first of all useful for the press itself. By promoting ethical standards, self-regulation helps maintain the media's credibility with the public. Media self-regulation helps convince the public that the free media are not irresponsible. At the same time, self-regulation protects the right of journalists to be independent, and to be judged for professional mistakes not by those in power but by their colleagues⁶. Thus, the self-regulation system reduces state intervention in the media sector.

The self-regulation system is also good for the public. It is quite natural for media consumers to seek guarantees about the value of journalists' information. If journalists work according to agreed ethical standards of behaviour — based on accuracy, fairness, independence and accountability — they provide the public with information that is fair, accurate, and checked. Examination by the press council of possible breaches of the rules of ethics ensures "quality insurance"⁷.

Thus, media self-regulation is a component of social responsibility, which will help the media to be editorially independent and free from the control of the state and owners, not to be only profit-seeking structures but to bear a certain responsibility before the society, taking into account the informational needs and demands of different groups

⁴ CDL-AD(2005)032 *Guidelines on media analysis during observation missions, prepared in co-operation between the OSCE's Office for Democratic Institutions and Human Rights, the Council of Europe's Venice Commission and Directorate General of Human Rights, and the European Commission, adopted by the Council for Democratic Elections at its 14th meeting (Venice, 20 October 2005) and the Venice Commission at its 64th Plenary Session (Venice, 21-22 October 2005) (Executive summary, para. II).*

⁵ CDL-AD(2018)024, *Opinion on the Law on preventing and combating terrorism of the Republic of Moldova*, § 87.

⁶ Haraszti, *indicated work*, page 10.

⁷ *Ibid.*

of the public. The social responsibility model assumes that mass media are willing to respond to consumers' complaints and suggestions about the content they disseminate.

The mass media self-regulation system should be of primary significance in establishing socially responsible and ethical journalism; the existence of an effectively functioning self-regulation system derives first of all both from the interests of the journalist community and the society (media consumers) and the state. Therefore, in such conditions, the establishment of the mass media self-regulation system may become an effective mechanism for solving the problems of unfair journalism, non-compliance with the norms of journalistic ethics, and the spread of misinformation.

Taking into account the importance of the self-regulation system both in ensuring the independence of the media and in the formation of responsible journalism, various international institutions repeatedly call on the media in their documents to create a self-regulation system and on the state to support it.

The Council of Europe actively supports the development of the mass media self-regulation system. It has adopted several documents that are meant to promote the development of such systems. In Resolution 2 of the 4th [European] Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994), the Ministers of the Member States agreed that democracy requires the existence and strengthening of a free, independent, pluralistic and responsible journalism, and that all persons engaged in journalism have the right to develop self-regulatory standards. This Declaration is milder than Resolution 1003 (1993) adopted by the Parliamentary Assembly of the Council of Europe⁸, which emphasises that the media have an ethical responsibility towards citizens and that the creation of self-regulation mechanisms by the mass media for monitoring the observance of ethics of journalism is encouraged.

The OSCE Representative on Freedom of the Media separates five reasons for the media to develop media self-regulation. In particular, the self-regulation system does the following:

1. It preserves editorial freedom;
2. It helps to minimize state interference;
3. It promotes media quality;
4. It is evidence of media accountability;

⁸ <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16414>.

5. It helps readers access the media⁹.

Resolution 428 (1970) of the Parliamentary Assembly of the Council of Europe (PACE) on the Declaration on Mass Communication Media and Human Rights advises journalists to establish two forms of self-regulation (code and councils). In line with this approach, in some European countries the mass media self-regulation system has received legislative stipulation. Moreover, the study of practice shows that in one case, these countries have limited themselves to legislatively fixing regulations promoting membership in the self-regulation system, and in another case, they have expanded the scope of co-regulation, by also defining the main components of the self-regulation system and the general procedure for operation thereof.

In Denmark, for instance, media self-regulation is recognised by law and is mandatory. The Media Liability Act defines that the content and conduct of the mass media shall be in conformity with sound press ethics. Complaints of violation of the ethics norms can be lodged with the mass media concerned or directly to the Danish Press Council. In order to act within the scope of the Act, press enterprises shall be registered with the Press Council.

Pursuant to the Defamation Act of **Ireland**, the court considers whether the mass media was a member of the Press Council at the time of the publication complained of, complied with the Press Council's standards, the decisions of the Press Ombudsman and the Press Council. Pursuant to that Act, the Minister of Justice of Ireland may issue an order that the Press Council shall be a self-regulatory body for the purposes of the Act; moreover, only a self-regulatory body that meets the requirements of the Act may be recognised as such. The study of the Irish legislation shows that it not only stipulates provisions promoting membership of the mass media in the self-regulatory system but also specifies in detail the composition of the self-regulatory body, the procedure for examining complaints and the types of decisions being rendered.

At the same time, the study of the European practice also shows that in almost all European states there is at least one established and reputable self-regulatory body functioning; moreover, in the case of the vast majority it is in the form of a press council to which the main part of the mass media of the given country are members. Those are: the

⁹ Haraszti, M. 2008. *The OSCE Media Self-Regulation Guidebook: all questions and answers*, Vienna: OSCE, page 12.

Austrian Press Council¹⁰, the Press Council of **Bosnia and Herzegovina**¹¹, the **Bulgarian** National Council for Journalistic Ethics Foundation¹², the **Cyprus** Media Complaints Commission¹³, the **Estonian** Press Council¹⁴, the Council for Mass Media in **Finland**¹⁵, the **French** Council for Ethical Journalism and Mediation¹⁶, the **German** Press Council¹⁷, the **Georgian** Charter of Journalistic Ethics¹⁸, the Press Council of **Ireland** and the Office of the Press Ombudsman¹⁹, the Press Council of **Kosovo**, the **Luxembourg** Press Council²⁰, the **Moldovan** Press Council²¹, the Media Self-Regulation Council of **Montenegro**²², the **Netherlands** Press Council²³, the **Norwegian** Press Complaints Commission²⁴, the Public Board on Press Complaints of **Russia**²⁵, the **Swedish** Media Ombudsman²⁶, the **Swiss** Press Council²⁷, etc. The latter are members of the Alliance of Independent Press Councils of Europe (AIPCE)²⁸.

The Parliamentary Assembly of the Council of Europe has stated in its report that the media must undertake to submit to firm ethical principles guaranteeing freedom of expression and the fundamental right of citizens to receive truthful information and honest opinions. In order to supervise the implementation of these principles, self-regulatory bodies or mechanisms must be set up comprising publishers, journalists, media-users, associations, experts from the academic world and judges²⁹.

According to the EU Guidelines, the mass media would adhere to editorial and ethical codes; they should develop effective mechanisms for dealing honestly and transparently

¹⁰ <https://www.presserat.at/>.

¹¹ <https://english.vzs.ba/>.

¹² <http://mediaethics-bg.org/>.

¹³ www.cmcc.org.cy/.

¹⁴ vana.meedialit.ee/pressinoukogu/index-eng.html.

¹⁵ <http://www.jsn.fi/en/>.

¹⁶ <https://cdjm.org/>.

¹⁷ <https://www.presserat.de/en.html>.

¹⁸ <https://www.qartia.ge/en>.

¹⁹ <https://www.pressombudsman.ie/>.

²⁰ <https://www.press.lu/en/who-we-are/history/>.

²¹ <https://consiliuldepresa.md/ro>.

²² <http://www.medijiskisavjet.me/index.php/mne/>.

²³ <https://www.rvdj.nl/>.

²⁴ <https://www.presse.no/>.

²⁵ <https://www.presscouncil.ru/>.

²⁶ <https://medieombudsmannen.se/>.

²⁷ <https://www.presserat.ch/>.

²⁸ <https://www.presscouncils.eu/members>.

²⁹ *Parliamentary Assembly, Ethics of journalism (Origin - Assembly debate on 1 July 1993 (42nd Sitting) (see Doc.6854, report of the Committee on Culture and Education, Rapporteur: Mr Núñez Encabo). Text adopted by the Assembly on 1 July 1993 (42nd Sitting), points 36-37.*

with readers/viewers complaints³⁰.

The Committee of Ministers of the Council of Europe has repeatedly called on Member States to encourage mass media self-regulation in its documents³¹. In the Declaration on freedom of communication on the Internet, self-regulation and co-regulation are separated as independent principles on the information disseminated on the Internet³². Moreover, one of the documents of the Council of Europe states the following: "Following good European practices, some statutory recognition of the existing system could be welcome, bearing in mind however, that this should not open the door to political interference and pressures"³³. In the Section "Conclusions" of one of its opinions, the European Commission for Democracy through Law (Venice Commission) has stated the following: "In the meantime, in order to address the problem of malicious or irresponsible media behaviour on the internet, the Venice Commission encourages the Albanian authorities to support the setting-up of an effectively functioning and independent self-regulatory body involving all relevant stakeholders of the media community and capable of ensuring an effective and respected system of media accountability in the online media field through self-regulation."³⁴.

³⁰ European Commission, 2014. *Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020*, https://ec.europa.eu/neighbourhood-enlargement/guidelines-eu-support-media-freedom-and-media-integrity-enlargement-countries-2014-2020_en.

³¹ Recommendation Rec (2001) 8 of the Committee of Ministers to member states on self regulation concerning cyber content (self-regulation and user protection against illegal or harmful content on new communications and information services) (Adopted by the Committee of Ministers on 5 September 2001, at the 762nd meeting of the Ministers' Deputies), points 1-3, Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers' Deputies), point 25, Recommendation CM/Rec(2007)11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment (Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers' Deputies), Recommendation CM/Rec(2013)1 of the Committee of Ministers to member states on gender equality and media1 (Adopted by the Committee of Ministers on 10 July 2013 at the 1176th meeting of the Ministers' Deputies), point 4, Declaration on freedom of communication on the Internet (Adopted by the Committee of Ministers on 28 May 2003 at the 840th meeting of the Ministers' Deputies), Principle 2, Recommendation CM/Rec(2007)11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment (Adopted by the Committee of Ministers on 26 September 2007 at the 1005th meeting of the Ministers' Deputies).

³² Declaration on freedom of communication on the Internet (Adopted by the Committee of Ministers on 28 May 2003 at the 840th meeting of the Ministers' Deputies), Principle 2.

³³ European co-regulation practices in the media: Comparative analysis and recommendations with a focus on the situation in Serbia, Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JURFEX), commissioned by the Council of Europe, 2017, page 6.

³⁴ CDL-AD(2020)013-e, Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service, adopted by the Venice Commission on 19 June by written procedure replacing the 123rd Plenary Session, point 72.

Within the framework of the 6 criteria defined in Recommendation CM/Rec(2011)728, the Committee of Ministers of the Council of Europe to member states on a new notion of media has, *inter alia*, defined the existence of professional standards (adherence to professional standards means that the media can voluntarily develop and adopt their own code of ethics and apply self-regulation/compliance (it's about professional standards — compliance) procedures or join the existing ones).

A particular importance should be attached to the fact, that it is stated in the Armenia's Media Sector Needs Assessment Report - 2019 of the Council of Europe³⁵ that self-regulation in the sector of is in place in Armenia, but its impact is limited due to a *lack of* clear policy and *legislative promotion* thereof. Self-regulation needs support and strengthening to meet its potential impact on media governance. The fight against hate speech was a critical area identified whereby co-regulatory arrangements would be highly necessary. The Council of Europe standards are widely addressing this issue. *Moreover, one of the recommendations in the Report regarding the main amendments to the Law "On mass media" is the support of self-regulation and co-regulation.* This approach was also reconfirmed in the overview of Armenia's Media Sector Needs Assessment Report – 2022 of the Council of Europe³⁶.

Thus, both the recommendations of the Council of Europe and the stances of prominent international organisations explicitly highlight the necessity for the state to facilitate the establishment of a (co)self-regulation system of the mass media. Moreover, the main legal measure to support the establishment of the self-regulation system is, above all, its legislative recognition.

The legislative enshrinement of individual elements of the self-regulation system is not new to the legal framework of the Republic of Armenia either. Thus, points 5 and 6 of part 3 of Article 46 of the Law “On audiovisual media” envisage that an application for participation in the licensing competition for the use of a public multiplex slot must be accompanied by the Code of Ethics which is defined in the Law as a document independently drawn up by the broadcaster — in accordance with international

³⁵ Council of Europe, *Armenian Media Sector Needs Assessment Report – Overview of National Legislative Framework Covering Media Freedom of Expression, Public Service Media and its Compliance with the Council of Europe Standards, November 2019.*

³⁶ DCFE-ARM-NAR-TP 1/2022, Directorate General of Human Rights and Rule of Law, Information Society Department, Division for Co-operation on Freedom of Expression, *Armenia's Media Sector Needs Assessment Report - 2022, Overview of the National Legislative Framework Covering Media Freedom, Freedom of Expression, Public Service Media and its compliance with Council of Europe standards, 2022.*

standards — on its own ethical norms, as well as the self-regulation measures to ensure compliance with the provisions of the Code of Ethics.

It should be noted that Resolution No 1003 (1993) of the Parliamentary Assembly of the Council of Europe on the Ethics of journalism defines a number of criteria in the field of ethics of journalism, including the need for a clear distinction between news and opinions, the need to meet ethical principles in the field of exercising the fundamental right to receive information, including the criterion to obtain information solely by legal and ethical means, and the need to observe special ethical rules in conflict situations and those subject to special protection. Regulations on the rules of ethics are also outlined in Resolution No 2066 (2015) of the Parliamentary Assembly of the Council of Europe on Media responsibility and ethics in a changing media environment, as well as in Recommendation CM/Rec(2022)4 of the Committee of Ministers of the Council of Europe on promoting a favourable environment for quality journalism in the digital age, and in other legal documents. Recommendation CM/Rec(2022)4 of the Committee of Ministers of the Council of Europe outlines a number of criteria in the field of ethics and quality journalism, including fact-checking, ensuring inclusiveness, upholding the principle of non-discrimination, and protecting personal data.

The mentioned documents also establish baseline principles and standards related to media self-regulation. A number of documents and guidelines have also been adopted within the framework of the OSCE, defining standards related to the rules of professional ethics and self-regulation systems (including the OSCE “The Media Self-Regulation Guidebook” (2008), the OSCE “The Online Media Self-Regulation Guidebook” (2013), and other documents).

There are also documents adopted by a number of specialised organisations, such as the Declaration of Principles on the Conduct of Journalists adopted by the International Federation of Journalists and the Global Charter of Ethics for Journalists adopted by the same organisation, which also contain detailed regulations on the rules of professional journalistic ethics.

Although the current Law "On mass media" regulates the relations pertaining to the implementation of mass media, it does not address mass media self-regulation. Therefore, in Armenia, the mechanisms for self-regulation of mass media have been introduced and operate solely in the status of civil society.

Thus, on 9 January 2007, Yerevan Press Club (YPC) issued an appeal to the

journalistic community of Armenia, suggesting jointly developing basic norms of professional ethics. In the same year, during a meeting of mass media representatives that endorsed the YPC initiative, a working group was formed which developed the code of conduct³⁷ (Code) for mass media representatives, as well as established a Media Ethics Observatory (MEO) which comprised 7 members. The mission of the Media Ethics Observatory is to examine complaints regarding violations of the Regulations and to adopt opinions based on the results of its examinations.

Currently, 76 mass media outlets operating in Armenia have signed the Code, and 8 journalistic non-governmental organisations support the initiative. The mass media representatives having signed the document acknowledge that the Media Ethics Observatory has the competence to examine the compliance of their actions and publications with the provisions of the Code, and they are ready to publish the decisions of the Media Ethics Observatory in their media outlets.

However, the study of the activity of the Media Ethics Observatory shows that the public rarely tends to apply to it in cases of violations of the ethics code by the mass media. At the same time, the study of the list of mass media³⁸ that have signed the Code of ethical principles for media and journalists in Armenia shows that a quite significant number of media operators in Armenia, including major players in the media field, are not members of the self-regulation system. Although the number of complaints addressed to the Media Ethics Observatory has increased significantly since the beginning of 2022, the statistics still indicate that the public is 4.5 times more likely to apply to the court upon the ground of potential violations by the mass media than to the Media Ethics Observatory.

Since 2011, the Information Disputes Council (IDC) has been established and is operating in Armenia as an additional extrajudicial mechanism examining information disputes. It does not hold the status of legal entity and joins seven leading experts in the field. The IDC examines and publishes expert opinions on informational disputes of legal nature, both upon application and on its own initiative. To date, the IDC has published 87 expert opinions.

A number of Armenian media outlets have adopted their own ethics codes; however,

³⁷ The Code of ethical principles for Armenian media and journalists can be found at the following link: https://ypc.am/wp-content/uploads/2021/05/Code-of-Ethics_arm_May-15_2021.pdf.

³⁸ The List is available at: https://ypc.am/wp-content/uploads/2021/12/List-of-Members-as-of-as-of-June-2021_arm.pdf.

these primarily serve as a tool for observing professional standards within the editorial office and do not presume application of a mechanism for considering complaints from the audience.

In Armenia, there is also some experience with introducing the internal ombudsman institute in certain media outlets (such as "Aravot" daily, "A1+" and GALA television companies), but these initiatives were temporary.

It is noteworthy that since 2020, in accordance with the requirements of the Law "On audiovisual media," television and radio companies participating in licensing competitions, which had not joined the self-regulation initiative of 2007, have developed their own codes of conduct and established mechanisms for considering complaints, but their effectiveness still needs to be studied.

The above-stated attests that although the Armenian media have been able to independently develop a certain self-regulation system, the institutionalisation of this system and the enhancement of its effectiveness should be promoted by including the major segment of the media field in it, as well as to recognise the self-regulation system of mass media by a legal regulation, and increase the level of awareness on this system.

Additionally, it should be noted that the concept of "mass media" has begun to be perceived and used by the general public in a way that diverges from its true essence, which has led to disagreements, misunderstandings, and has exacerbated the issues of unfair journalism, dissemination of information that fails to meet journalistic ethics norms, including issues of disinformation. Therefore, it is necessary to distinguish mass media from other means of informing the public so that it is clear to the general public which websites or entities disseminating information adhere to journalistic ethics rules and have legally recognised self-regulatory bodies, and accordingly create the environment (the public) for which the self-regulation system should operate.

At the same time, the analysis of comparative experience shows that states promote the membership of mass media in self-regulatory bodies through various methods.

Pursuant to the Defamation Act of *Ireland*, the court shall, in determining whether the publication of the relevant allegation was fair and reasonable, take into account such matters that it considers relevant, including in the case of an allegation published in a periodical whether the mass media was a member of the Press Council at the time of publication, to what extent the mass media has met and complied with the Code of Standards of the Press Council and decisions of the Press Ombudsmen and the Press

Council.

In **Belgium**, joining the Media Council is a precondition for receiving state subsidies. This type of incentive promotion does not pose any problem in terms of media freedom³⁹.

In **Estonia**, in June 2014, the authorities, for instance, rejected the accreditation to government press events to the media outlets that were not in the composition of the Press Council⁴⁰.

In the United Kingdom, the Royal Charter provides for differential treatment of publishers based on whether they are members of the Media Self-Regulation System, whereas those outside the system face the threat of damages and fines if they appear in court.

The comparative experience shows that states have employed incentives and sometimes intervention measures to ensure the membership of mass media in self-regulation bodies. However, it should be taken into consideration that the selection of such measures is directly conditioned by the peculiarities of the media field of the state concerned.

Thus, for example, in Ireland, where the only legislative measure encouraging membership in a self-regulatory body is that when evaluating publication in defamation cases, the court considers, *inter alia*, the membership of the media in the Press Council, observance of the Code of Standards of the Press Council and the decisions of the Press Ombudsman and the Press Council thereon, there is an incomparably well-established system of mass media self-regulation in place. It is enough to state that in 2021, the Press Ombudsman and the Press Council received a total of 527 complaints⁴¹. Similar incentive mechanisms are envisaged in Great Britain as well, where the Independent Press Standards Organisation received 30,126 complaints in 2020⁴².

It is impossible to clarify legislative approaches regarding the membership of the mass media in the self-regulatory body in accordance with the legislation of the Republic of Armenia without addressing the issue of what constitutes "mass media", that is, without

³⁹ HULIN, Adeline, *Statutory media self-regulation: beneficial or detrimental for media freedom? Working Paper, EUI RSCAS, 2014/127, p. 7.*

⁴⁰ HULIN, Adeline, *Statutory media self-regulation : beneficial or detrimental for media freedom? Working Paper, EUI RSCAS, 2014/127, p. 9.*

⁴¹ <https://www.presscouncil.ie/fileupload/Statistics%20for%202021.pdf>.

⁴² https://www.ipso.co.uk/media/2115/ar20_webversion.pdf.

a legal definition of the concept of "mass media".

The concept of mass media is defined in Article 3 of the Law "On mass media" (hereinafter referred to as "the Law"). The definition of the concept of "mass media" in the Law has faced criticism on multiple occasions. In recent years, the journalistic community, parliamentarians, and experts have been actively discussing the issue of a new legislative definition of "mass media"⁴³. It has been noted that the definition of the concept of "mass media" in the Law is not in line with the new approaches and principles emerging in the European expert community and needs revision⁴⁴.

It has also been noted **in the Updated Armenia's Media Sector Needs Assessment Report - 2022 of the Council of Europe** that "the idea of "mass media" or "mass information" as the main object of the 2003 Law is nowadays very imprecise, and definitely outdated. It is common to find these notions in post-Soviet countries, reflecting concepts commonly used in USSR media legislation. However, these notions neither fit into the current media panorama, nor are they in line with current applicable international and European standards." It was also specified that the new legal instrument would not contain a prescriptive list of different media types (print, broadcast, etc.) but rather, a general definition of media activities, embracing all present and future formats. Such a definition must focus on the essence of the activity: dissemination of information; ideas and opinions under editorial responsibility or control; on matters of public interest and to the general public (or a part of it) through any technical means of diffusion or distribution⁴⁵.

*It is specified in **Recommendation CM/Rec(2007)15 of the Committee of Ministers of the Council of Europe On measures concerning media coverage of election campaigns**⁴⁶ (hereinafter referred to as "Recommendation CM/Rec(2007)15") that the*

⁴³ *Problems of the media legislation of Armenia and their potential solutions based on the international practice. Report based on the findings of the study on international practices in legislative regulation of the media, Yerevan, 2022, p. 6.*

⁴⁴ *Problems of the media legislation of Armenia and their potential solutions based on the international practice. Report based on the findings of the study on international practices in legislative regulation of the media, Yerevan, 2022, p. 9.*

⁴⁵ *DCFE-ARM-NAR-TP 1/2022, Directorate General of Human Rights and Rule of Law, Information Society Department, Division for Co-operation on Freedom of Expression, Armenia's Media Sector Needs Assessment Report - 2022, Overview of the National Legislative Framework Covering Media Freedom, Freedom of Expression, Public Service Media and its compliance with Council of Europe standards, 2022, pp. 23, 24.*

⁴⁶ *Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns (Adopted by the Committee of Ministers on 7 November 2007 at the 1010th meeting of the Ministers' Deputies).*

term “media” refers to those responsible for the periodic creation of information and content and its dissemination over which there is editorial responsibility, irrespective of the means and technology used for delivery, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public. This could, *inter alia*, include print media (newspapers, periodicals) and media disseminated over electronic communication networks, such as broadcast media (radio, television and other linear audiovisual media services), online news-services (such as online editions of newspapers and newsletters) and non-linear audiovisual media services (such as on-demand television).

Recommendation CM/Rec(2011)726⁴⁷ provides for the following main features of the media:

- intent to act as media;
- engagement in the production and dissemination of news content;
- exercise of editorial control over the content;
- observance of professional standards;
- strive for the dissemination of information and conforming to public expectations.

2. Nature of the proposed regulation:

Taking into account the above-mentioned, the following is proposed under the Drafts:

- (1) to define the concept of media self-regulation in the Law "On mass media" as a component of social responsibility of the media, the objective whereof is to ensure the quality of activity of the media without state intervention;
- (2) to define media self-regulation, including having ethics code, a self-regulatory body (mechanisms for ensuring the provisions of the code of conduct) as a criterion for evaluating its status;
- (3) to restate the main concepts defined in the Law "On mass media", bringing them in line with the existing international requirements;
- (4) to provide for regulations promoting the fulfilment of the self-regulation obligation, for example, guaranteeing the right to accreditation in state/public institutions without preconditions for media with a self-regulation system, as well as measures of encouragement to apply to these bodies in cases of protection from defamation and insult before applying to the court, etc.;

⁴⁷ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cc2c0.

- (5) to define the concept of self-regulatory bodies and the procedure for recognition thereof in the Law "On mass media";
- (6) to establish grounds whereby it will be possible to distinguish and make visible to the public those who carry out media activities with self-regulatory bodies recognised in accordance with the law;
- (7) to establish mechanisms aimed at implementation of this recognition in the transitional period and for creation of a new Media Council by joining the later recognised self-regulation measures.

3. Institutions and persons involved in the development of the Draft:

The Drafts were developed with the advisory participation of the Ministry of Justice, as well as the "Freedom House" Rights Protection non-governmental organisation and the experts of the Media Ethics Observatory.

4. Expected outcome:

As a result of the adoption of the Drafts, it is expected to introduce an effective system of mass media self-regulation in the Republic of Armenia, which will enable promotion of the observance of ethical standards, thus increasing public trust in the media. At the same time, it is expected to bring the definition of the concept of "mass media" in the Law in line with new approaches and principles emerging in the European expert community.

5. Necessity for additional financial resources with regard to the adoption of the Draft and changes to be expected in the State Budget revenues and expenditures:

Adoption of the Drafts does not lead to changes in the State Budget revenues and expenditures.

6. Relation to strategic documents:

Adoption of the Drafts stems from point 20 regarding the section of the Ministry of Justice of the 2021-2026 Action Plan of the Government, which provides for reflecting the international best practice in accordance with current developments in the mass media legislation.