

# Regulatory environment for media freedom and media pluralism

Armenia

## □ Criminal law framework

- Defamation – decriminalized in 2010
- No **conviction** and **sentencing** of journalist at least in the last 20 years
- Problematic areas - physical **assault**, **hate speech**, **hate crime** (??) against journalists, **search** of premises and **seizure** of equipment
  - **Ineffective** remedial mechanisms
    - ✓ outdated legal norms/grounds – especially against discriminatory practices
    - ✓ Lack of effective criminal investigation
    - ✓ No use of ECHR article 10 standards

## □ Defamation civil laws

- Article 1087.1 of Civil Code (defamation and insult)
  - **rising number** of defamation cases against journalists and media outlets
  - well-balanced court practice and supreme court caselaw
  - ECHR 3-part test widely used
    - ✓ legitimate aim
    - ✓ public interest test
    - ✓ **chilling** effect test
    - ✓ **proportionality** of liability

## □ Protection of journalistic sources

- Effective laws and practice
- Constitutional court decision no. SDV-1234
  - **3 grounds to open source:**
    - ✓ to prevent serious and very crime
    - ✓ to protect life
    - ✓ Defendant's fair trial right charged for serious and very serious crime

Never used in practice!

## □ Access to information

- Access to information law
  - Government regulation 1204
  - Ineffective court practice
    - Courts mostly rule in favor of petitioners, but trial takes too long (2-5 years), e.g. 1 hearing in 1 year
- Data received from Fol center

## □ Protection of media regulators against interference

- Commission on Television and Radio – regulatory body
- Constitutional body
- Members elected by Parliament
- Chairman elected by members
  
- Poor performance – acts overly formalistic

## □ Public service media

- Public TV/Radio Council
- Not a constitutional body
- State body – **less guarantees** of independence than the regulatory body
- Policy maker rather than content regulator – legal uncertainty
- Uncertain scope of power and functions of the members
- Lack of open-mindedness and proactiveness of members

## □ Regulation of on-line media

- Minimum regulation through licensing of telecommunication operators (1<sup>st</sup> level)
- Operators do not monitor the content
- Operators provide **unfettered** access to surveillance/intelligence bodies
- Domain registrars (2<sup>nd</sup> level) do not monitor the content
- Grounds for blocking, filtration and taking down of content - extremely unclear
  - ✓ ECHR article 10 standards (e.g. *proportionality*, *public interest test*) not implemented