

Statement Regarding the Draft Amendments to the RA Constitution

July 13, 2005

On July 7, 2005 the RA authorities sent the draft amendments to the RA Constitution to the discussion of the Venice Commission, and on August 29 an extraordinary session of the RA National Assembly is summoned to consider the document.

The draft amendments to the Constitution have a provision, according to which the members of the authority (here and below emphasized by statement signatories), regulating the electronic media, are appointed by the RA National Assembly upon the nomination by the RA President. According to the draft authors, it is compliant with the Agreed Conclusions and Follow-up of the Constitutional Reform Process, adopted at the meeting between the European Commission for Democracy Through Law (Venice Commission) and the Armenian authorities on June 23-24, 2005 in Strasbourg, one of the clauses of which provides for the involvement of the National Assembly in the process of nomination of the members of media regulatory *authorities*.

We insist that the corresponding definition in the draft, submitted for the assessment of the Venice Commission, does not provide the best solution to the issue of media freedom, independence and plurality and does not adequately express the principles set in the Agreed Conclusions.

Firstly, the draft amendments make a reference to *one regulatory authority* (this was explained by the authors to be referring to the authority, regulating the private broadcasting), while according to the RA Law "On Television and Radio", there are two such bodies – the Council of Public Television and Radio Company and the National Commission on Television and Radio. Therefore, the provision must have referred not to one authority, but to *authorities*, particularly, since the Agreed Conclusions mention "media regulatory authorities ". The phrase "regulatory *authorities* for broadcasting"/ "broadcasting regulatory bodies" is also used in Parliamentary Assembly of the Council of Europe Resolution 1458(2005) on Constitutional Reform Process in Armenia.

Secondly, it would be more reasonable and effective that the National Assembly, as a representative institution that expresses the interests of various groups of society, nominate the members of the regulatory bodies, and the President, as the constitutional guarantee and the head of state, make the appointment. This will ensure the active involvement of various power branches and of the public in the formation of these bodies. Further on, after reform of the Constitution, the procedure for nomination by the NA and approval or rejection by the President of the regulatory body members will be defined by the amendments to the Law "On Television and Radio".

We also believe that the Constitution should contain a provision that prohibits any form of censorship. This proposal of ours is based on the reality that in countries committed to democracy that used to have censorship agencies in their recent past retain the threat of introducing certain forms of disguised censorship. The provision on prohibiting any form of censorship in the Constitution will be a guarantee for eliminating its concealed manifestations in different laws.

We call on the RA National Assembly to include the provisions proposed by us in the draft to be submitted for the second hearing.

Yerevan Press Club

Journalists Union of Armenia

Internews Media Support Public Organization

Committee to Protect Freedom of Expression

“Investigative Journalists” NGO

“TEAM” Research Center

“Asparez” Journalist’s Club of Gyumri