

FINAL MEDIA REPORT - OSCE/ODIHR Election Observation Mission deployed to observe the 2003 Presidential Election in Armenia

MEMO` 98 expert worked as media analyst for the OSCE/ODIHR Election Observation Mission deployed to observe the 2003 Presidential Election in Armenia. Following is the final media report.

FINAL MEDIA REPORT

Background to the Media in Armenia

Television is the main source of news in Armenia. The Armenian public TV is among few broadcasters to have a nationwide outreach and considered to be the most influential media outlet in the country. Apart from the public TV, approximately 45 TV stations operate in the country, around 21 of them based in Yerevan. The most significant private TV stations are: Prometevs, Armenia, Alm and Shant. The two State-funded newspapers and several private outlets offer a wide range of views and political positions. However for economic reasons, newspapers suffer from localized circulation and are financially dependent on sponsors.

The media environment in Armenia prior to the 2003 presidential elections was negatively affected by the cases of two private TV broadcasters A1+ and Noyan Tapan that remained off throughout the entire campaign period as a result of problematic tender processes in 2002. TV A1+, in particular, was largely expected to offer an independent and diverse range of information about candidates. The December 2002 killing of the head of public TV council - who was close to the President - and an October grenade attack on another journalist had a chilling effect on the pre-electoral environment. The combination of lost licenses and incidents of violence, as well as credibly reported intimidation cast shadow over the media atmosphere and led some journalists and broadcasters to exercise self-censorship.

Legal Framework for the Media

Article 24 of the Constitution guarantees "the right to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders". Journalists are guaranteed to have freedom of reporting and access to information. Article 44 does limit freedom of speech "for the protection of state and public security, public order, health and morality, and the rights, freedoms, honour and reputation of others". Article 70 of the Criminal Code punishes publishing of classified information. The 1996 Law on State Secrets divides classified information into four wide categories including military, international, economic and intelligence information, but remains vague in providing sufficient details on the definition of each category. Further, Article 208 of the Soviet-era Criminal Code stipulates that "publicly insulting authorities with regard to their conduct during official duties" is a crime punishable by up to one year in prison. The code also provides criminal liability for defamation of character. If defamation is made in writing or through broadcasting, it can lead to a three-year prison term. Defamation does not have to be malicious to be deemed as crime.

The Law on Radio and TV was passed by the Parliament in October 2000. Article 28 of the law obligates the public TV and radio to provide its audience with information free from prejudice or preference. In its Article 39, the law stipulates for creation of National Commission for Radio and TV, which has nine members all appointed by president. Article 2 provides for creation of Council of Public TV whose five members are also appointed by president. In its Resolution 1304 of 2002, the Parliamentary Assembly of the Council of Europe called on the Armenian authorities to amend the Law on Radio and TV without delay. The 1991 Law on Press and Mass media permits libel suits against journalists and media organizations. Advocating “war, violence, ethnic and religious hostility, prostitution, drug abuse, or other criminal acts” and “publishing state secrets, false and unverified reports” and the details of citizens` private lives without permission is illegal. The law stipulates the first offence to be a three-month suspension of one`s publishing license. A second offence warrants a six-month suspension. The Parliament continued to delay passage of a new media law. Nevertheless, the new draft of the Law on Mass Media proposed by the Government contains the notion of defamation by prohibiting journalists to publish information “harmful to a person`s integrity or business”. The election law includes provisions to govern the conduct of electronic and print media in Armenia during a pre-election campaign, inter alia providing for free and paid broadcast-time and print-space to all candidates on equal conditions for campaign purposes. To supplement the regulations in the election law, CEC adopted a decision on January 15 to further specify the campaign in the media. In its Article 5, the CEC decision obligated the employees of mass media not to create uneven conditions between the candidates or influence the citizens through a prejudiced support.

Media monitoring

The EOM media monitoring was carried out from January 21 through February 17 in the period prior to the first round of elections and from February 21 through March 3 in between two rounds, using qualitative and quantitative method of analysis. The EOM monitored five televisions and six print media outlets as follows: Armenian public TV; four private channels Prometevs, Armenia, Alm and Shant; one State newspaper Hayastani Hanrapetutyun and five private newspapers Azg, Hayots Ashkharh, Golos Armenii, Aravot and Orran.

Publicly-funded media did not meet its obligation outlined in the Law on Radio and TV Broadcasting, as well as in a CEC decision of 15 January, to provide voters with information about the candidates free from prejudice or preference. While public TV adhered to the legal provisions relating to providing free advertising time for all political contestants, its news coverage was biased, as were its analytical and other programs. These clearly supported the incumbent, who received extensive coverage beyond what was reasonably proportionate to his role as head of state. The President received 41% of primetime coverage on public TV news and analytical programs, almost all of it (93%) in his capacity as a candidate rather than engaged in presidential duties. The next most covered candidates received 19% and 11%. Moreover, virtually all public TV coverage (93%) of the incumbent was positive or neutral, while opposition candidates received roughly equal proportions of negative and positive primetime news and analytical coverage.

Private broadcasters were even more biased in favour of the incumbent, largely ignoring opposition candidates. For example, one of the private channels with nationwide outreach, Prometevs, allocated 61% of its prime-time news to the incumbent with an exclusively positive tone. In contrast, two candidates considered as opposition front-runners accounted for 5% and 3% respectively, with this coverage mainly negative.

Another nationwide private broadcaster, TV Armenia, was even more vigorous to show its support to the incumbent by allocating him 65 % of its primetime news coverage, which was overwhelmingly

positive in tone. By comparison, the channel ignored the opposition front-runners who received each only 2 % of roughly equal proportion of negative and positive primetime news coverage.

The private TV channel Alm showed its viewers a similar picture by allocating 61 % of its primetime news coverage to the incumbent, with an overwhelmingly positive slant. In contrast, one of the two leading opposition candidates received less than half a minute of the channels primetime news coverage in the entire campaign period prior to the first round of elections.

TV Shant did not offer a level playing field for the opposition candidates. While somewhat less biased than the other private broadcasters monitored by the EOM, the channel allocated 47 % of its primetime news coverage to the incumbent, once again mainly positive. The next most covered candidates, Manoukyan and Karapetyan, received respectively 15% and 14% of mainly neutral or positive primetime news coverage.

The rate set for paid political advertising by private broadcasters, at U.S. \$120 per minute, was very high by local standards, limiting candidates' possibilities to campaign in the media. The rate emerged from an unusual price-fixing agreement among public television and five private television stations that offered air time for political advertising. This rate for political advertising was approximately three times higher than comparable rates for commercial advertising on private television.

The National Commission on Radio and Television reported receiving and adjudicating 54 complaints. In two cases private broadcasters were fined for violating the Law on Radio and TV Broadcasting and the CEC decision of 15 January, by broadcasting paid advertisements that were not clearly designated as such. The Commission reported receiving no media related in the period between the rounds.

The print media provided a plurality of views, but invariably showed strong bias either in favour of or against a candidate. Consequently, voters could form an objective view of the campaign only if they read several publications. The state-funded Hayastani Hanrapetutyun showed clear support for the incumbent by allocating him 66% of its candidate coverage, with an overwhelmingly (99%) positive or neutral slant. In comparison, two candidates considered as opposition front-runners received only 5% and 2% of the coverage, which was mainly negative in tone. Private newspapers monitored by the EOM were clearly divided in terms of showing their position towards the incumbent president. While Golos Armenii, Azg and Hayots Ashkharh showed their overt support to the incumbent, Aravot and Orran were clearly against him and provided more coverage of the opposition candidates. The Aravot daily, for example, allocated 37% of its coverage to the incumbent, with an overwhelmingly negative tone.

Second round

In the period between the first and second rounds, public TV comprehensively failed to meet its obligation to provide voters with information about the candidates free from prejudice or preference. While public TV adhered to the legal provisions to provide 15 minutes of free advertising to both candidates during the official campaign period for the second round, its news and analytical programmes overtly promoted the incumbent, who continued to receive extensive coverage. Public TV also produced a primetime news item discrediting the opposition candidate. The President received 69% of primetime coverage on public TV news and analytical programs, almost all of it positive or neutral (93%). In contrast, Stepan Demirchyan received 31% of the coverage, of which 67% was negative. In the course of analytical programs such as "Yerekoyan Yerevan", the opposition candidate was invariably under heavy criticism from the public TV. In addition, there was a

consistent problem with the lack of balance, since public TV as a practice aired one-sided and unbalanced stories. Generally, Armenian public TV, which is reliant on public funds, did not properly serve the Armenian citizens throughout the entire campaign period prior to the first and second round of elections.

In a positive development, for the first time during an Armenian presidential election, a TV debate between the two main contestants took place on public TV and was aired by several other TV channels. Six journalists representing Armenian private TV companies were invited to ask questions to both candidates. However, the format of debate and selection of participating journalists was unfriendly against the opposition candidate. In addition, several private TV stations organized a number of debates and discussions between candidate representatives.

Private broadcasters monitored by international observers once again failed to provide a level playing field for the opposition candidate and remained openly biased in favour of the incumbent in their primetime news coverage in the period between the two rounds. In contrast to the first round, five private television stations decided not to offer air time for paid political advertising, further limiting the possibility for the opposition candidate to present his views.

The print media continued to show clear bias in favour of their chosen candidate to the extent that it was almost impossible for a voter to rely on any one source of information to gain an objective view of the campaign. The state-funded Hayastani Hanrapetutyun remained heavily biased in favour of the incumbent by allocating him 57% of its candidate coverage with an exclusively positive tone. In comparison, the opposition candidate received 43% of coverage, of which 67% was negative. The only alternative sources of political information were a limited number of opposition newspapers that showed clear bias against the incumbent and offered a platform to his opponent. The Aravot daily, for example, allocated 62% of its coverage to the incumbent, with an overwhelmingly negative tone. However, due to low impact and localized circulation, the few opposition newspapers could not compensate for the lack of balance in the electronic media.

International observers continued to receive credible reports of intimidation and harassment of journalists. In the period between the two rounds some journalists reported that they experienced pressure, coercion and editorial interference akin to censorship following their coverage of opposition gatherings and subsequent detentions. The Russian independent TV station NTV, which provided full coverage of the events, went off air in Armenia since 26 February; the local company Paradise, which re-broadcasts NTV programs in Armenia, reported technical problems with its transmitters. Senior public TV sources also reported that its journalists received threats. In general, the media's biased coverage of the election demonstrated that Armenia still lacks a strong and independent media able to provide sufficient, balanced information to enable the electorate to make a well-informed decision.

RECOMMENDATIONS

To amend the Law on Radio and TV - in particular Article 39 which stipulates that all nine members of the National Commission for Radio and TV are appointed by president. There should be an independent and impartial body to monitor and regulate the conduct of media. It should receive and promptly adjudicate complaints concerning media related breaches of the law. The body should receive complaints from candidates and citizens and it should be empowered to order prompt rectification, retraction or right to reply and to seek enforcements of its orders - usually, a common practice is to issue a warning in case of first violation followed by a fine and if it is necessary, the third option is the court and possible lost of license or registration. The composition of the body should include representatives of at least the major political parties as well as independent media

professionals. It is also recommended that the election broadcast regulatory body should monitor all campaign-related broadcasts to assess their compliance with laws and regulations. The body should meet on regular (daily) basis throughout the whole election campaign. Similarly, the Law on Radio and TV should be amended in its Article 29 which stipulates creation of the Public TV council of which five members are currently appointed by president. The council should oversee the public TV and radio independently to control whether the publicly funded media live up to their public mandate.

The Election Code should clearly divide the responsibilities of the public and private broadcasters. The public media should remain neutral in the news and current affairs programs. As stipulated in the Council of Europe` Recommendations on measures concerning media coverage of the elections, news and current affairs or discussion programs are considered to be particularly important for observance of fairness and impartiality given that some people for their voting intentions, to some extent, on the basis of such programs. Therefore, the state media should develop a neutral, objective and independent editorial line and the reporting should be more balanced even when covering government activities during the election periods State authorities should refrain from interfering in the activities of journalists and other media personnel with a view to influencing the elections. There should not be any intimidation, threat, closures or pressures on the media by public authorities.