

Joint programme Council of Europe / European Union “Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova”

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Abstract

While free and independent media, sometimes qualified as the “fourth estate”, is a pillar of civil society, the European Union (EU) is rather absent from media development in democratizing countries. In its Strategy Paper 2011-2013, the European Instrument for Democracy and Human Rights does not mention the media as an explicit objective. Despite the poor situation of media in the South Caucasus, the EU is quite discreet in this sector of democracy promotion within the Armenia, Azeri and Georgian civil societies. It co-funds with the Council of Europe the joint programme “Promoting freedom, professionalism and pluralism of the media in South Caucasus and Moldova”, which started on January 1, 2011 and will run until December 31, 2012. The implementation of the programme is entirely under the responsibility of the Council of Europe, an organisation which lacks the EU institutional incentives to influence the governments in the South Caucasus. Can the Council of Europe / European Union Joint programme SC-MLD-Media II have any impact on the media situation in South Caucasus, or do the realities on the field prevent any efficient implementation?

The Joint Programme SC-MLD-Media II:

The overall goal of the programme is to “support the development of legal and institutional guarantees for freedom of expression, higher quality journalism and a pluralistic media landscape in Armenia, Azerbaijan, Georgia and Moldova in line with the Council of Europe standards and as regards both ‘traditional’ and ‘new’ media”. This programme has a budget of €1 100 000. The activities of the Council of Europe follow three main themes:

the legal framework and its implementation (expected results: the regulatory framework for freedom of expression and for the media is brought closer in line with European standards; the implementation of the media-related regulatory framework and self-regulation are improved in line with Council of Europe standards);

an independent and effective broadcasting (expected results: the broadcasting regulatory bodies are better equipped to function in an independent and effective manner; the public service broadcasters gain in professionalism and are better trusted by the political leaders, the civil society, media professionals and the public at large);

and journalism curricula integrating journalist rights and ethic rules to promote journalism and media professionalism (expected results: journalists have better understanding of their rights, respect ethical rules and are trained to exercise their work in a professional and responsible manner as recommended under the applicable Council of Europe standards; applicable Council of Europe standards; The quality of journalism education is improved, notably through introducing new courses, or enhancing existing ones, on the rights and responsibilities of journalists).

The main interlocutor targeted by the Council of Eu-

rope in this programme is civil society. The participants of the activities organized through those two years are journalists, unions, NGOs, media lawyers, judges, broadcast institutions and citizens themselves. Meanwhile official authorities are scarcely involved in the process. Dialogue with them is of course not totally excluded. The Georgian National Communication committee, a state authority independent from the State budget, participated in a workshop on the implementation of the Code for Broadcasters. In Armenia help from experts of the Council of Europe was offered for the elaboration of the draft amendments to the Law on Radio and Television organised by the ombudsman. Most of the legal assistance is actually provided to the Moldavian authorities and not the South Caucasus ones despite Azerbaijan's lack of media-supportive legislative framework.

In the South Caucasus the activities of the programme emphasize the familiarization of journalists, judges and media lawyers with the Article 10 of the European Convention of Human Rights: *"Everyone has the right to freedom of expression. This right shall include freedom to hold and to receive and impart information and ideas without interference by public authority and regardless of frontiers."* Seven specific seminars or special trainings are dedicated to the issue. In the spirit of the programme it is the civil society, which should carry the project of reforming the legal framework and the political practices to the public authorities, which then would implement them. The effectiveness of the programme leans on the dangerous assumption that the governments are willing to improve the media situation in their countries.

Unlike the previous joint programme on media promotion (running over the period 2008-2009) the objectives of the programme of 2011-2012 are not differentiated according to the targeted country: the same results are expected from Armenia, Azerbaijan, Georgia and Moldova. The Council of Europe thus assumes that media-structure in the four countries is similar, and that the media is confronted by the same restrictions. A closer look at the media situation in each of the South Caucasus countries will show that this is actually short-sighted.

Media freedom in the South Caucasus:

In the three South Caucasian Republics, media outlets are struggling for their independence, their freedom of expression and the right to information. Both the

Armenian media and the Azeri media are qualified as 'not free' by Freedom House, respectively with a score of 6 and 6,75 respectively. Only in Georgia is the media partly free with a score of 4,25.

Georgia. Freedom of speech and freedom of expression are both basically secured by the Georgian legal framework. Libel is no longer a criminal offence. Laws on freedom of expressions and access to information are broadly meeting international standards, but they are not enforced because of a lack of political will. The government tries to control opposition media, and creates impediments to the access to information. The main problem pointed out by international watchdog organisations is the lack of transparency in media ownership and property rights, especially for television. The Law on Broadcasting was amended in April 2011 by the Parliament to ban broadcast media ownership by offshore registered firms; positive effects to comment upon are yet to come. Moreover the media is struggling to achieve economic independence. The main nationwide television stations are owned by big businesses close to the state. Internet is not subject to government regulations, but the journalists' limited knowledge concerning Internet technologies and web-tools prevent them from taking advantage of this space of liberty. Besides Internet penetration is quite low, especially outside of the main cities.

Armenia. Armenian media is working in an oppressive environment; opposition media is subject to pressure and harassment. In 2003 law on freedom of information was adopted but not implemented. In June 2010 the Law on Television and Radio consolidated the control of the government over broadcast media – the media with the broader audience. Self-censorship is common. Advertising resources are quite narrow, and thus cannot guarantee economic independence. In May 2010 the penal code was amended and defamation is no longer punishable by imprisonment. This positive trend is overshadowed by the multiplication of trials for defamation, followed by exorbitant fines which put some journalists and some media outlets in serious financial difficulties. As in Georgia, the Internet is relatively free but with low penetration.

Azerbaijan. Imprisonment, violence and harassment are commonly used against journalists and bloggers expressing dissident opinions in Azerbaijan. There is no media pluralism. Print outlets are owned by government officials or the ruling party; broadcast media is almost entirely controlled by the government. The legal background does not secure any rights for the

journalists. The criminal offence of libel is regularly used to silence opposition journalists. Despite the ban of official censorship in 1998, the practice is still well-spread. Azerbaijan is the only South Caucasus regime controlling on-line media.

What efficiency of the promotion of freedom of media by the Council of Europe in the South Caucasus?

Despite undifferentiated objectives in its narrative, the Council of Europe has attempted to take into accounts the local specificities of each country when drawing up the programme activities, in order to meet handle the concrete realities of the field with accuracy. Enrolling local experts in the programme allows the European consultants to better understand the local needs. In Armenia a TV programme was broadcast in September 2011 to raise the judges' awareness on the application of libel and defamation legislation as well as on its consequences for the journalists.

Unlike what the Council of Europe assumed in the programme narrative, public authorities are not ready to ease their pressure on the media, and their cooperation is scarce. Instead the Council of Europe favours cooperation with civil society and local actors in an attempt to trigger grass-roots movements defending media rights and which would in turn pressure the governments. Individuals are key targets in this strategy, because they can be actively involved in media promotion by reporting as often as possible violations to the freedom of expression and violations to their right to information. To avoid inefficient state institutions, the Council of Europe works with independent bodies which are less sensitive to state influence. It is the case in Armenia, where the use of the Media Ethics Observatory is favoured over the one of the classical judiciary system. Working exclusively with civil society and avoiding contact with the official authorities could be to some extent efficient in Armenia and Georgia since a basic legal framework is already settled there. But it cannot have any impact in Azerbaijan given the degree of governmental oppression over there. Overall in the three countries cooperation with or pressure on the official authorities to influence the legislation making and its implementation is still needed. Failing to secure it is a crucial shortcoming in the programme of the Council of Europe. The

Council of Europe's institutional weakness could be overcome if the joint programme were completed by EU actions at the governmental level through the European Neighbourhood Policy and the Eastern Partnership. However, EU strategies of democracy promotion have focused on state institutions and have left out civil society and media. Moreover, EU democracy promotion in the region has been slowed down by strategic interests such as energy transport and production.

The second drawback in the programme is the absence of attention dedicated to the economic viability of media outlets. Indeed the media is not only threatened by political practices but also by impediments to achieving economic and financial independence. Broadcast and print media rely heavily on the advertisement market, and can easily be overtaken by big government-friendly businesses. Despite the decriminalisation of libel, Armenian media has been facing the additional difficulty of defamation fines, which can push it towards close-downs. Available resources are not the only side of the economic issue. Journalists also need to be trained in business management in order to keep their outlet viable by themselves. But the curricula praised by the Council of Europe focused exclusively on ethics and rights of journalists and leaves out the economic aspect of the journalistic training.

Finally, the programme focuses too much on the traditional media. Since in Armenia and in Georgia the Internet is not yet under control, web-training should be given more importance in the journalistic curricula. Then the media would have the tools necessary to create on the Internet the space of liberty and of information-exchange that is absent within traditional media outlets. Besides, economic viability is easier to achieve for web-sites than for printed newspapers. The Internet penetration is still quite low today, but it has been gradually growing. Journalists should makes the best of the freedom they have now to prevent inevitably looming government control.

The focus of the Council of Europe is too much on theoretical issues: its programme is about raising awareness on freedom of expression and on the right to information as well as on the importance of free and independent media in a democratic civil society. However, it does not give the journalists the tools to create this independent, pluralistic and professional media sector because it lets aside the technical issues of economic and web training. Moreover, the "joint" aspect of the programme should not be limited to the sharing of funds with the EU, so that the reputation of the EU contributes to the effectiveness of the programme.