

European Union Presidency
Prime Minister Ing. Mirek Topolánek
Office of the Government of the Czech Republic
Nábřeží Edvarda Beneše 4
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CZECH REPUBLIC



London, 5 May 2009

Dear Prime Minister,

ARTICLE 19 welcomes the launch of the European Union's 'Eastern Partnership' and the placing of human rights at the core of this initiative. In this letter ARTICLE 19 highlights key freedom of expression issues that need addressing in each of the proposed Partnership Countries. These include: continued violence towards journalists, the impunity that accompanies this, and much needed legal reforms.

ARTICLE 19 believes that any dialogue and policies that form part of the 'Eastern Partnership' agreement with the proposed members: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, should be dependent on a genuine commitment to human rights and free expression.

ARTICLE 19 would like to bring to the European Union (EU)'s attention that assaults, including the murder and disappearances of journalists, have continued to take place in all of the proposed members of the Partnership Countries, creating a climate of impunity for the perpetrators and fear amongst journalists. Other grave concerns include police brutality and the imprisonment of journalists in the Partnership Countries. ARTICLE 19 would particularly like to highlight the following:

- In Armenia a number of prominent journalists have been the victims of assaults. These include Levon Barseghyan, who was set on fire, and investigative journalist Edik Baghdasaryan and Lusine Barseghyan, who were both physically assaulted. Those responsible for these attacks have never been found. The latest incident, on 30 April 2009, left Argishti Kivirian, an internet journalist, severely injured in hospital. Journalist Arman Babadzhanyan remains imprisoned since 2006.
- In Azerbaijan the 2005 murder of Elmar Huseynov, the editor-in-chief of the Monitor, remains unresolved. In 2008 alone, there were at least 49 incidents involving verbal or physical assaults on journalists. In a recent attack, ANS TV correspondents Nijat Suleymanov, Elmin Muradov and Azer Balayev reported that they were subjected to ill-treatment by police on 26 April 2009 whilst trying to investigate the destruction of a building. Journalists Eynulla Fatullayev, Ganimat Zahidov and Novruzali Mamedov continue to be imprisoned.
- In Belarus the authorities have failed to shed light on the July 2000 'disappearance' of cameraman Dmitri Zavadski and the October 2004 murder of the journalist Veranica Charkasava. The latest attacks on journalists include an assault on photographer Uladzimir Hrydzin on 16 April 2009 and the detention and

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confiscation of equipment of journalist Siarhei Panamarou and his crew on 17 April of this year.

- In Georgia peaceful protesters have been physically attacked on a daily basis since the beginning on 9 April 2009 of ongoing anti-government protests. Opposition activists have reportedly been specifically targeted, as police allegedly turned a blind eye. Throughout the two elections in 2008 and the August 2008 conflict with Russia, the government suppressed the media through a number of tactics, including the takeover of the television station *Imedi*. A government supporter attacked *Hereti Radio* correspondent Khatuna Gogishvili on the day of the election and threatened to kill her. During the August 2008 armed conflict between Georgia and Russia in South Ossetia three journalists were killed and at least 10 journalists were wounded.
- In Moldova Alina Radu, Anastasia Nani, Tatiana Eţco and Nicolae Cuşchevici from national newspaper *Ziarul de Garda*, *PRO TV Chisinau* cameraman Constantin Rogodantiev and cameraman Oleg Brega, were all ill-treated by police on 8 April 2009 whilst covering the post-election demonstrations. A significant number of protesters, who were detained, were subjected to ill-treatment by the police, some of which was severe. Media and NGO's who critically reported on the events came under government pressure.
- In Ukraine the instigators of the murder of internet journalist Georgiy Gongadze in 1999 have still not been brought to justice. The attack on Natalya Vasova, director of *Rezonans-TV*, three years ago, has still not been resolved. In February 2009 a group of journalists from the Dnepropetrovsk journalistic investigations studio *Rezonans-TV* were assaulted by a security guard.

ARTICLE 19 wishes to bring to your attention the vital need for legal reforms in accordance with international human rights standards to protect free expression and freedom of information in the Partnership Countries. In particular:

- In Armenia, the March 2007 amendments to the Law on the National Commission on Television and Radio do not resolve its lack of independence. The formation of the commission should ensure a balanced representation of all segments of society. The moratorium on distribution of broadcasting frequencies should be lifted and the decision of the European Court of Human Rights on *A1+* should be implemented.
- In Azerbaijan criminal defamation continues to be used to imprison and intimidate journalists. Recent changes to the Media Law pose further restrictions on independent media, by allowing media outlets to be suspended in cases of 'abuse of power', such as use of anonymous sources. The law will also make it possible for authorities to close a media outlet for two months. In addition to this, amendments to the Azerbaijani constitution in March 2009 potentially restrict the right to access to information, in particular where information about the activities of state officials is gathered.
- In Belarus the scope of the new Media Law is excessively broad, imposes strict conditions on content, requires re-registration of print-media, provides for regulation of online media by governmental decree, simplifies the procedure of closing down media outlets, and has created a range of significant obstacles for journalists, related to the procedure of getting obligatory press accreditations for reporting from Belarus.
- Although Georgia has a progressive Media Law, the current climate of repression against independent media shows a lack of political will to implement this important piece of legislation.
- In Moldova, despite the progressive new Law on Assembly, which came into force in April 2008, police have continued to restrict freedom of expression by detaining

legitimate and peaceful protesters and using other legal tactics such as defamation lawsuits.

- In Ukraine the draft Law of Access to Public Information needs to be amended in accordance with international legal standards. In addition to this ARTICLE 19 considers that the Law ‘On Television and Radio Broadcasting’ should be amended to clearly distinguish the status of the national broadcasters and diminish the powers of the President to appoint members of the board.

ARTICLE 19 calls on the EU and the Partnership Countries to address these concerns and implement the following recommendations and those highlighted under Annex One:

- To promptly and independently investigate and prosecute those responsible for the murders of, and violence against, journalists, as well as for assaults against peaceful demonstrators. Impunity should not be allowed to flourish and a clear message must be sent that attacks on the media of any kind will not be tolerated
- To release people imprisoned for peacefully expressing their opinion, and journalists imprisoned for their work, and to put an immediate stop to the practice of imprisoning journalists.
- To amend all legislation which hinders freedom of expression and information and to bring it into line with international human rights standards.

ARTICLE 19 urges the European Union to raise these aforementioned concerns and recommendations with the Partnership Countries, to ensure that the right to freedom of expression is a key focus of their discussions and to require from the Partnership Countries that they genuinely commit to keeping ‘shared values, including democracy, the rule of law, and respect for human rights [...] at its core’ as stated in the European Council March 2009 Declaration.

ARTICLE 19 calls on the Partnership Countries to take immediate steps to uphold the right to freedom of expression and ensure they comply with their international and regional human rights obligations.

Yours sincerely,

Dr. Agnès Callamard
Executive Director, ARTICLE 19

Cc: President of the Republic of Armenia, Mr. Serzh Sargsyan
President of the Republic of Azerbaijan, Mr. Ilham Aliyev
President of the Republic of Belarus, Mr. Alyaksandr Lukashenka
President of the Republic of Moldova, Mr. Vladimir Voronin
President of Georgia, Mr. Mikhail Saakashvili
President of Ukraine, Mr. Viktor Yushenko
European Commission Representation in the UK, Acting Head of Representation,
Sarah Lambert

Annex One: ARTICLE 19 Specific recommendations

Armenia: ARTICLE 19 recommends that the Armenian authorities implement the following reforms and recommendations:

- Profound reform of the Armenian legislation to bring about greater independence, pluralism and diversity of its audiovisual services, in particular by lifting the moratorium on the distribution of frequencies and allowing AI+ to take part in the tender in equal and fair conditions.
- Further amend the legislation, to ensure that the National Commission on Television and Radio is fully independent from the influence of the government and that its composition represents the variety of the Armenian society in a balanced way.
- Ensure safety for journalists, effectively investigate the cases of attacks and intimidations against journalists, and bring to justice both those that have carried out and those that have instigated these attacks.
- Release Arman Babadzhanian, editor of *Zhamanak Yerevan*, who has been imprisoned since 2006.

Azerbaijan: ARTICLE 19 recommends that the Azerbaijan authorities implement the following reforms and recommendations:

- Decriminalize defamation as a matter of urgency.
- Amend the Media Law and the recent changes to the constitution to ensure that legislation restricting the right to freedom of expression is brought in line with international freedom of expression standards.
- Investigate violence or threats of violence against journalists, including the unresolved murder of Elmar Huseynov, editor-in-chief of *The Monitor* in 2005.
- Release all those sentenced on politically motivated criminal charges and halt the imprisonment of journalists for their work, including Eynulla Fatullayev, Ganimat Zahidov and Novruzali Mamedov

Belarus: ARTICLE 19 recommends that the Belarus authorities implement the following reforms and recommendations:

- Reform the current Media Law to bring it in line with international human rights standards.
- Further reform of legislation, in particular the abolition of the requirement for accreditation of correspondents and the ban on the work of foreign media in the country.
- Review other legislation, in particular the Law 'On Counteraction to Extremism' and articles of the Criminal Code relating to defamation, to bring them into line with international human rights standards.
- Allow independent media outlets to return to the subscription and distribution systems and lift any restrictions on their publication. The retention of the state monopoly on the distribution/subscription systems and printing facilities allows the government to exercise control over distribution and publishing of newspapers. As a result, most non-state political and social newspapers face serious problems, including exclusion from those systems.
- End all restrictions on printing and distribution of media.

- Promptly and independently investigate the ‘disappearance’ of Dmitri Zavadski, the murder of Veranica Charkasava and cases of police brutality against journalists, bringing perpetrators to justice.
- Release Mikhail Autukhovich, Uladzimir Asipenka, and Yury Liavonau and all others who have been imprisoned for exercising their right to free expression.

Georgia: ARTICLE 19 recommends that the Georgian authorities implement the following reforms and recommendations:

- Recall the restrictions imposed on media in Georgia during the elections in November 2007 and again during the conflict with Russia in August 2008. ARTICLE 19 states that even in times of critical national importance such as elections and conflict, the Georgian government must uphold its international and national legal commitments to ensure protection for its journalists and not to suppress independent reporting of not only individual journalists but also entire media outlets.
- Abide by Georgian progressive media laws and refrain from interference and pressure on media, allowing independent news outlets, especially TV channels, to broadcast freely.

Moldova: ARTICLE 19 recommends that the Moldovan authorities implement the following reforms and recommendations:

- Investigate police brutality and police failure to protect demonstrators during the demonstrations in April 2009, as well as failures to allow demonstrations in accordance with the Law on Assembly. Investigate cases of police ill-treatment and arbitrary detention (some by unidentified plain-clothed policemen) on protesters which resulted in 105 persons being treated at the emergency hospital in Chisinau, including 24 who had to be hospitalised.
- Establish the whereabouts of 19 year old Serghei Donici and 27 year old Alexandru Galinschi who have allegedly “disappeared” and fully investigate the death of three others: Valeriu Boboc, Ion Țâbuleac and Eugen Tapu.
- Noting poor implementation of laws relating to the media and an increasing suppression of media outlets for political reasons and the overall regression in free expression in Moldova, ARTICLE 19 calls on the Moldovan government to stop its suppression of independent media outlets and encourage a pluralistic marketplace of media.

Ukraine: ARTICLE 19 recommends that the Ukrainian authorities implement the following reforms and recommendations:

- Renew efforts towards investigating the 10 years old murder of Georgiy Gongadze, editor of the online newspaper *Ukrainskaya Pravda*, on 16 September 1999, and bringing those who instigated his murder to justice.
- Amend the draft Law on Access to Public Information to ensure that it is in line with international standards and fully protects the right of the public to access information in the public interest. These include amendments on how the legislators can improve the regime of exceptions, the definition of the public interest override and an overall legal framework of access to information.
- Amend the Law ‘On Television and Radio Broadcasting’ to clearly define the status of the national broadcasters, and ensure that the President should not have the power to appoint members to the Boards of the National Television Company of

- Ukraine (NTCU) and the National Radio Company of Ukraine (NRCU). In addition, conditions for dismissal of board members should be set out in the law and the boards should be precluded from engaging in day-to-day oversight of the national broadcasters' work. ARTICLE 19 recommends that the government enacts these amendments, in addition to its more general call to establish a Public Service Broadcaster in line with international standards.
- Put an end to the recent trend of censoring newspapers and the banning of books on grounds of 'defence of public morality'. ARTICLE 19 is concerned that this could be used as a new form of censorship to silence media outlets.