



ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

MEMORANDUM

on

the Act on Presentation of Submitters of Electoral Lists through Electronic and Printed Public media, State and Privately-owned, in the Period from Calling for Elections to Commencement of Electoral Silence

by

**ARTICLE 19
Global Campaign for Free Expression**

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1. Introduction

The “Act on Presentation of Submitters of Electoral Lists through Electronic and Printed Public media, State and Privately-owned, in the Period from Calling for Elections to Commencement of Electoral Silence” (the law) was signed by the President of Montenegro on Tuesday 30 July 2002 after passing its first and second readings in less than two weeks. The law was passed after the announcement of parliamentary elections, due to be held on 6 October, and it now seems unlikely that it will apply to these elections.

The law governs election coverage by the State-owned media (both broadcast and print) and, to some extent, by the private broadcast media. Together with this law, amendments to the Public Information Law and to the Law on the Election of Councillors and Representatives were also passed. The latter repealed existing provisions regulating the coverage of elections (Articles 50 to 64), which are to be replaced by the law analysed here, while the amendments to the Public Information Law related to the issue of appointments of editors-in-chief of the State-owned media.

There are some positive elements in the law. These include the motivation for its adoption, that of promoting fair and balanced reporting, by ensuring access to the media for all political parties and by limiting the instances of possible favouritism of the incumbent party. The latter was a serious problem during the last presidential elections.

However, ARTICLE 19 has some concerns regarding the general approach of the law, of which the main ones are:

- provisions aiming at micro-managing election coverage;
- provisions allowing for interference with editorial independence by political forces;
- the failure to provide guarantees for the independence of the regulatory body; and
- the failure to provide adequate provisions for the regulation of private broadcasters.

ARTICLE 19 also notes with concern the lack of public debate that preceded the signing of the law. The law passed its first reading on 17 July and its second reading on 29 July. It was then swiftly signed by the President on the following day. This left no possibility of consultation with either Montenegrin media professionals and civil society or the international community.

2. International and Constitutional Guarantees

Under international law, political parties and candidates have a right to express their views freely through the mass media, the public has a right to hear those views, and citizens have a right to adequate and balanced information to enable them to participate fully in voting to choose the future government. These principles, enshrined in paragraph 7.7 and 7.8 of the 1990 OSCE Copenhagen Document, are based on the rights to freedom of expression and non-discrimination, as well as the right to political participation. Guarantees of these rights are found both in international law and the Constitution of Montenegro.

Two documents are of particular relevance in encapsulating international standards in this area. The first is Recommendation No. R(99)15 of the Committee of Ministers of the Council of Europe on Measures Concerning Media Coverage of Election Campaigns (Council of Europe Recommendation)¹ and the second is ARTICLE 19's *Guidelines for Election Broadcasting in Transitional Democracies* (ARTICLE 19 Guidelines).² While these documents lack the formal status of international law, they are widely regarded as authoritative interpretations of international standards in this area.

a) Freedom of Expression

Freedom of expression, a fundamental human right, is protected by Article 19 of the Universal Declaration of Human Rights (UDHR),³ binding on all States as a matter of customary law. It is also guaranteed by a number of international human rights treaties,

¹ Adopted 9 September 1999.

² (London: August 1994).

³ UN General Assembly Resolution 217A(III), 10 December 1948.

including the European Convention on Human Rights (ECHR),⁴ Article 10(1) of which states:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring licensing of broadcasting, television or cinema enterprises.

International law does permit limited restrictions on the right to freedom of expression and information in order to protect various private and public interests. For example, Article 10(2) of the ECHR states:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

This Article subjects any restriction on the right to freedom of expression to a strict three-part test. This test requires that any restriction must a) be provided by law; b) be for the purpose of safeguarding a legitimate public interest; and c) be necessary to secure this interest.⁵

The third part of this test means that even measures which seek to protect a legitimate interest must meet the requisite standard established by the term ‘necessity’. Although absolute necessity is not required, a ‘pressing social need’ must be demonstrated, the restriction must be proportionate to the legitimate aim pursued, and the reasons given to justify the restriction must be relevant and sufficient.⁶

The Constitution of the Republic of Montenegro also contains detailed provisions guaranteeing freedom of expression and freedom of the press (Articles 34, 35 and 37), including freedom from censorship and protection for free distribution of newspapers.

In particular, Article 35 protects freedom of expression in the following terms:

Freedom of press and of other public information media shall be guaranteed. Citizens shall have the right to express and publish their opinion in the public information media. Publication of newspapers and public dissemination of information by other media shall be accessible to everyone without prior permission, subject to registration with the competent authority. Radio and television broadcasting organisations shall be established in accordance with law.

⁴ E.T.S. No. 5, in force 3 September 1953.

⁵ For an elaboration of this test see *Goodwin v. United Kingdom*, Judgment of 27 March 1996, Application No. 17488/90, 22 EHRR 123 (European Court of Human Rights), paras. 28-37.

⁶ *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Application No. 6538/74, 2 EHRR 245 (European Court of Human Rights), para. 62. These standards have been reiterated in a large number of cases.

In addition, governments are obliged to ensure media pluralism and to encourage a diversity of sources of information. The Committee of Ministers of the Council of Europe has declared that “states... should adopt policies designed to foster as much as possible a variety of media and a plurality of information sources, thereby allowing a plurality of ideas and opinions.”⁷ The European Court of human rights has also emphasised that “the State is the ultimate guarantor... of the principle of pluralism,” and that pluralism is necessary if the media is successfully to accomplish its public functions: “This observation is especially valid in relation to audio-visual media, whose programmes are often broadcast very widely.”⁸

The State’s obligation to ensure pluralism in the media during election periods has been addressed in the above-mentioned Council of Europe Recommendation, which notes: “During election campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.”⁹

b) Non-Discrimination

The right of political parties and candidates to have equitable access to the public media receives powerful support from the strong prohibition of discrimination, including on grounds of political opinion, under international law. Article 14 of the ECHR states:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, *political or other opinion*, national or social origin, association with a national minority, property, birth or other status. [Emphasis added]

Article 15 of the Constitution of Montenegro also contains a non-discrimination provisions as follows:

All citizens are free and equal regardless of any particularities and/or other personal attributes. Everyone shall be equal before the law.

In relation to access to airtime on a public broadcaster during an election campaign, the European Commission of Human Rights has stated:

[T]he denial of broadcasting time to one or more specific groups may, in particular circumstances, raise an issue under Article 10 alone or in conjunction with Article 14 of the Convention. Such an issue would, in principle, arise for instance if one political party was excluded from broadcasting facilities at election time while other parties were given broadcasting time.¹⁰

c) Right to Political Participation

⁷ Declaration on Freedom of Expression and Information, 29 April 1982, para. 6.

⁸ *Informationsverein Lentia and Others v. Austria*, Judgment of 24 November 1993, Application Nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 38.

⁹ Section II(1).

¹⁰ *X and the Association of Z v. the United Kingdom*, Admissibility Decision of 12 July 1971, Application No. 4515/70, 38 *Collected Decisions* 86 (1971).

Article 21 of the Universal Declaration of Human Rights guarantees the right to political participation, as does the First Protocol to the European Convention on Human Rights, which states:

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”¹¹

Similarly, Article 32 of the Constitution of Montenegro states:

Every citizen of Montenegro who has reached the age of 18 shall be entitled to vote and be elected to a public office. The voting right is exercised at the elections. The voting right is general and equal. Elections shall be free and direct and voting shall be by a secret ballot.

The most detailed statements of participatory rights are found in documents of the Organisation for Security and Co-operation in Europe (OSCE). In the Copenhagen Document of June 1990, participating States committed themselves to “ensure that the will of the people serves as the basis of the authority of government” by, among other means, ensuring “that no legal or administrative obstacle stands in the way of unimpeded access to media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.”¹²

3. Analysis of the Law

a) General Approach

The law aims at ensuring the pluralistic expression of opinions via the media during electoral campaigns. However, it attempts to do so by imposing an overly rigid and detailed framework of rules.¹³ The law specifies the exact number of minutes and lines for each news item for, respectively, the broadcast and print media. It also specifies at Article 11 the types of programmes to be produced to inform the public (press conference reports, promotional events reports, promotional events reportages, announcement of promotional events, presentation of electoral programmes, presentation of candidates from electoral lists, interviews with first candidates on electoral lists and duels) and it prescribes that all press conferences should be held in the Press Center. Article 11.2 goes on to provide further detailed and intrusive regulations for additional programmes to be disseminated via “Presentation through Television of Montenegro”, “Presentation through the Radio of Montenegro”, and “Presentation through the Pobjeda Daily.” These provisions are excessively onerous, and place an unnecessary burden on media professionals to comply with the restrictive and complex regulations of the law. By setting detailed regulations on the types of programmes to be disseminated, the law also interferes with the media's editorial independence.

¹¹ E.T.S. No. 9, 20 March 1952, Article 3.

¹² Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, para. 7.8.

¹³ See Articles 1(2), 2, 4, 11, 14 and 23.

Many provisions are also very impractical. For example, the law requires journalists to calculate very carefully exactly how many minutes should be allocated to different political parties, which, in turn, must be divided into press conference reports, reportages etc. Currently there are eight parties, and it would be some burden for journalists avoid non-compliance with the law, and the imposition of high fines that this would entail.

The regime created by the law involves lengthy reporting by the various political parties, with a long succession of press conferences, reportages and other programmes. This can in fact be counterproductive, diluting the messages and confusing voters, and rendering more prominent the messages from the incumbent party.

It is recommended that the law only set out the principles governing direct access programmes, leaving it up to the journalistic community, possibly in consultation with an independent regulatory body and with political parties, to supply the details.

Article 2 limits the time for coverage of the incumbent during election periods and Article 3 limits the amount of activities involving the incumbent that might be covered during an election period. Article 3 also prohibits any coverage of visits to health care institutions. Where health care is an issue in the election, this unduly restricts the ability of parties to get their message across. More generally, people always have a right to receive information on matters of public interest, including where these involve governmental activities during elections periods. Although this should not lead to disproportionate coverage of the incumbent, information in the public interest should still be promptly disseminated and other means should be used to avoid imbalance.¹⁴ Articles 2 and 3 should therefore be amended to take this into consideration.

Article 14 requires titles of press releases and other news items “to reflect the very essence of the principal message conveyed, which representatives of [candidates] themselves may indicate to”. This is an unjustifiable restrictions on editorial independence.

Articles 4(1) and 7 place an obligation on journalists to be balanced in their reporting during election periods. It should be made clear that this applied to coverage overall, not to the content of any specific news or current affairs item. News is a perishable commodity and often needs to be disseminated promptly. Journalists cannot always ensure that all sides are presented in each programme/article so it should be made clear that this obligation does not apply on a programme-by-programme basis.

The law also places unjustifiable restrictions on candidates’ right to freedom of expression. For example, Article 1 states that candidates “shall be ... allowed to inform citizens ... in a timely and objective / unbiased manner”. Although it is legitimate to impose requirements of balance on journalists’ this verges on the absurd when applied to candidates, whose whole purpose in appearing on the media is to promote their own political messages. Article 11 provides for detailed and prescriptive regulations for the

¹⁴ The European Court of Human Rights has noted that matters of legitimate public concern are entitled the full protection of Article 10 of the European Convention. The Court stated that “there is no warrant ... for distinguishing ... between political discussion and discussion of other matters of public concerns”, *Thorgeir Thorgeirson v. Iceland*, 25 June 1992, Application No. 13778/88 (European Court of Human Rights), para. 64.

presentation of electoral messages, for example through press conferences (Article 11.1(1)) and through duels (Article 11.1 (9)). The law also contains some impractical and excessively onerous provisions, such as the obligation to announce press releases and press conferences at least 24 hours in advance (Articles 11.1 (1) and (2)). These provisions constitute an interference with a candidate's right to run his/her election campaign and express him/herself through means of his/her choice.

Many of these problems are exacerbated by severe sanctions consisting of fines of 50 to 300 times the minimum wage in case of violation of Articles 2, 3, 7, 8, 9 and 11.¹⁵ The same sanctions are also imposed in case of violation of Articles.

Recommendations

- The detailed prescriptions regarding election reporting (Articles 1(2), 2, 4, 11, 14 and 23) should be replaced by general provisions on direct access programming (see below) and a general obligation to provide fair and balanced reporting.
- The law should specifically recognise the right to editorial independence and freedom from political interference.
- The obligation of fairness and balance should apply to reporting overall, not to each programme.
- Articles 2 and 3 should be amended to allow for appropriate coverage of matters of public interest.
- Those articles which interfere with editorial independence, including Article 14 setting out the format of election reporting, should be abolished.
- Article 16 should be amended to ensure that breach of the law does not lead to disproportionate sanctions.
- The articles placing obligations on candidates to express themselves in specific ways during an election campaign should be repealed.
- Article 1 should be replaced with an article which recognised the right of all political parties to have access to the media to present their political agendas during elections.

b) Direct Access¹⁶

ARTICLE 19 recommends that political parties and candidates be given free direct access to airtime, at least in the public media, during elections.¹⁷ This is crucial to ensuring that voters are properly informed about the competing parties and their platforms. It is essential that this access is allocated to political parties and candidates on a fair and non-discriminatory basis. The Council of Europe Recommendation states:

¹⁵ Article 2 limits coverage of the incumbent, Article 3 limits coverage of the activities of the incumbent, Article 7 provides for balanced reporting, Article 8 obliges the media to disseminate decisions of the Commission regarding violations of the law, Article 9 limits the dissemination of results of opinion polls and Article 11 sets complex, detailed and restrictive regulations on media conduct during election campaigns.

¹⁶ Direct access refers to media slots allocated to political party and candidate access to use as they wish to presenting their political programmes to the voters.

¹⁷ See ARTICLE 19 Guidelines, No. 9.

Member States may examine the advisability of including in their regulatory frameworks provisions whereby free airtime is made available to political parties/candidates on public broadcasting services in electoral time.

Airtime should also be allocated on the basis of transparent and objective criteria.¹⁸

In the law there are provisions for direct access, although allocation is subject to a number of prescriptive rules of regulations, set out at Articles 11.2 and 11.3. It is, for example, specified that the time allocated on the programme “Pre-election Current Affairs”, from 4 to 7 pm daily, will include for each party: an introductory spot; a press release/notice; a press conference report; a promotional event report; and an announcement of events for the following day. Time for ‘additional explanation’ of the party’s political platform can also be provided on Television Montenegro for 15 minutes between 9 to 12 am once during the election campaign.¹⁹ Parallel provisions are in place for dissemination of electoral message through Radio Montenegro and *Pobjeda*. Article 11.5 also provides for free-of-charge political advertising, albeit also through strict and rigid provisions.

As stated above, it would be preferable if the law simply set of guiding principles for direct access programming, allowing the details to be worked out either by the media themselves or by an independent regulatory body.

Recommendation

- The provisions in the law on direct access programmes should simply establish guiding principles, leaving it either to the media themselves or to an independent regulatory body to implement these principles.
- If the detailed provisions for direct access are retained in the law, they should be reviewed so that they do not impose excessively onerous obligations on journalists or candidates.

c) The Regulatory Body

Article 13 provides for the establishment of a supervisory Commission. The main responsibility of the Commission is to monitor compliance with the law, for both the State-owned and private media (Article 21). The allocation of time slots is not one of its competencies, since specific regulations are included in the law. However, contrary to international standards, the Commission is envisaged as a political body, whose members are Members of Parliament (MPs), nominated by other MPs on the basis of proposals submitted by parliamentary clubs, also formed by MPs.

Under international and comparative law, it is well established that bodies with regulatory or administrative powers over both public service and private broadcasters should be *independent* from political interference. This is derived from the guarantee of freedom of expression and from general principles of public accountability. It is also derived from the State’s obligation to promote pluralism within and universal access to broadcasting. The importance of independence is also reflected in international treaties, such as the European Convention on Transfrontier Television, which states in its

¹⁸ Section II(4). See also ARTICLE 19 Guidelines, No. 9.

¹⁹ This is twice in the case of Radio Montenegro and *Pobjeda*.

Preamble that Member States “[reaffirm] their commitment to the principles of the free flow of information and ideas and the independence of broadcasters.”²⁰

It is therefore essential that the regulatory body established by this law has complete independence from the authorities, as the opposite might tempt powerful and/or incumbent candidates to abuse their influence to their advantage, resulting in skewed electoral reporting and the public’s impossibility to make informed choices. Therefore it is recommended that the law states clearly that the regulatory body be an *independent* body, able to operate free from political interference. This should be reflected in the appointment of its members, namely through a fair regime and in an open and transparent manner. The appointment should be carried out by an all-party body, such as the Parliament. It would also be advisable to have nominators from all segments of society, although it is acknowledged that this would entail a lengthy process, which might be impractical given the need to establish a regulatory body quickly after the announcement of elections.

The system in the draft law clearly fails to meet these standards. Not only is the body not independent, but, being composed of MPs, is almost by definition likely to place its members in a situation of a conflict of interest, as they are required to allocate media time slots to candidates (who may be from other parties) and even to hear complaints. In addition, there are no guarantees in place to ensure that the members of the Commission are representative of all societal strata, as well as acting in their individual capacity.

Article 15 of the law grants the regulatory body the authority to make decisions upon request on infringements of the law’s provisions within 48 hours from the submission of the complaint. This provision is a positive one, as it is essential that candidates, parties, members of the public and media workers themselves have access to a complaints system as a means of ensuring that the obligations in the law are respected.²¹ However, this sort of power can only legitimately be exercised by an independent body.

Finally, the law does not provide for an appeal system. This is crucial in the case of newly-established institutions in transitional democracies, where the independence of such bodies is still to be consolidated and their powers might be abused. The possibility of recourse must be established, for example to an administrative body (such as a Media Ombudsman), and ultimately to the courts.

Recommendations

- The law should state, clearly and unequivocally, that the regulatory body is independent of political and other forces.
- The law should set out clear rules for the appointment of the body’s members, which held guarantee their independence and which provide for an open and transparent process.
- The law should specify the qualifications required of members and only individuals who have relevant expertise and/or experience should be eligible for appointment. Members overall should be required to be reasonably

²⁰ E.T.S. No. 132, 5 May 1989.

²¹ See ARTICLE 19 Guidelines, No. 13.

representative of society as a whole and clear rules of incompatibility, for example prohibiting people with strong political affiliations from being members, should be provided for.

- There should be a right to appeal from decisions of the regulatory body.

d) *Paid Political Advertising*

Article 12 of the law prohibits paid political advertising. Violation of this provision is punished with a fine of 50 to 300 minimum wages, to be imposed on both the offending medium and the political party.

International law is ambivalent on the question of whether political parties should be allowed to purchase advertising space in the media during election periods and the practice of States varies. The decision whether or not to allow paid political advertising should be based on both the need for all parties to be able to access the media to present their platforms and campaigns to the public and the need to ensure that wealthy interests do not dominate the election process. It is only in countries where there is an effective direct access regime that paid political advertising may legitimately be prohibited.

Where such access is allowed, it is important that all parties have an equal opportunity to purchase advertisements, including equal rates of and terms for payment, and that the public is aware that the message is a paid political advertisement.²²

e) *Voter Education*

During the period preceding an election, it is crucial that the public are properly informed about voting processes and other matters relevant to the election, particularly through the public media.²³ The law fails to place an obligation on the media to provide voter education.

Recommendation

- The law should place an obligation on the public media to ensure that voters are properly informed about voting processes and other relevant matters.

f) *Right of Reply*

Article 11.1(10) of the law provides in summary form for a right of reply right in response to a “notice, information or an attitude/opinion” when this “infringes the right or interest of the [candidate] during the pre-election campaign.” Few details are provided as to how this right should be exercised.

Due to the particular power of defamatory statements to cause injury during campaign periods, redress for such statements should be available in a timely fashion. A right of

²² See Council of Europe Recommendation, Section II(5).

²³ See ARTICLE 19 Guidelines, No. 11.

reply, or to a correction or retraction, can provide a particularly timely and effective remedy in these circumstances.²⁴ The Council of Europe Recommendation states:

Given the short duration of an election campaign, any candidate or political party which is entitled to a right to reply under national law or systems should be able to exercise this right during the campaign period.²⁵

The right of reply in the law fails to provide adequate guarantees for its effectiveness and against its abuse. The possibility to reply to an opinion is contrary to international standards. Indeed, a reply should only be available to respond to incorrect facts or breach of one's rights (for example in the context of a defamatory statement). Article 11.1(10) is excessively vague, for example as to the meaning of an "infringement of right or interest of a candidate".

the following:

- the reply should be published or broadcast in a timely fashion;
- the reply should only be in response to incorrect facts or breach of a legal right, not to comment on opinions that the reader/viewer doesn't like;
- the reply receive similar prominence to the original material;
- a reply should be restricted to addressing the incorrect or misleading facts in the original text and *not* be taken as an opportunity to introduce new issues or comment on other correct facts.

Recommendations

- Article 11.1(10) should be amended to ensure that the right of reply is not applied in the case of an opinion.
- The law should reflect the principles noted above in relation to the right of reply.

g) Opinion Polls

Article 9 of the law stipulates that no information on public polls shall be publicised after the expiration of the time period envisaged for submitting electoral lists. This is normally relatively early on in the election campaign.

Opinion polls can exercise particular influence on the outcome of elections and can also be distorting, particularly very close to the voting day. As a result, they are subject to strict reporting requirements in many countries so that the public are able to accurately assess and understand the poll's significance.²⁶ In recognition of this, the Council of Europe Recommendation states:

Regulatory or self-regulatory frameworks should ensure that the media, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgement on the value of the polls. Such information could, in particular:

- name the political party or other organisation or person which commissioned or paid for the poll;

²⁴ ARTICLE 19 Guidelines, No. 7.

²⁵ Section III(3).

²⁶ See ARTICLE 19 Guidelines, No. 12.

- identify the organisation conducting the poll and the methodology employed;
- indicate the sample and margin of error of the poll;
- indicate the date and/or period when the poll was conducted.²⁷

Article 9 reflects these concerns but the deadline it establishes is simply too early in the electoral process. Polls contain relevant election information and should be allowed apart from during the period immediately preceding the vote. In most countries, the period of prohibition ranges from 24 hours to a few days. Article 9 should be amended to allow opinion polls during most of the campaign period but impose the reporting requirements reflected in the Council of Europe recommendation.

Recommendation:

- Article 9 should be amended so that opinion polls are prohibited only immediately prior to voting day but should impose substantive reporting requirements on opinion polls.

h) Media Immunity for Statements Made by Candidates

It is essential that parties be given wide scope to present their views and programmes to the public. At the same time, laws of general application, for example relating to defamation, remain in force during election periods and these laws often provide for liability not only of the author of statements but also of those who publish or broadcast the statements. In accordance with the above, and to prevent the media from being required to screen election programmes for actionable or illegal content, it is recommended that the media be granted some form of immunity for statements made by parties and candidates during direct access programmes.²⁸

Recommendations:

- The media should be protected against liability for statements made in direct access programmes outside of cases where the media outlet is in a position to prevent the airing of the statements (i.e. they are not in a live interview) and they represent a clear and gross breach of the law.

i) Editors-In-Chief

The amended Article 27 of the Public Information Law, signed by the President of Montenegro on 30 July 2002, states that editors-in-chief of the public media can be appointed and dismissed by a simple majority vote of members of the editorial board, rather than the two-thirds majority vote previously required. The same law amends Article 26 of the Public Information Law so that members of the editorial board are nominated by MPs from among their number.

ARTICLE 19 has concerns about the appointments process to editorial boards as provided for in the amended Public Information Law. Furthermore, reducing the majority required to appoint editors-in-chief clearly undermines the protection

²⁷ Section III(2).

²⁸ See ARTICLE 19 Guidelines, No. 6.

previously afforded to them, to the detriment of editorial independence. Furthermore, the fact that the amendments to the Public Information Law were signed on the same day as the election law gives us cause to concern that they are related.²⁹

Recommendations:

- The Public Information Law should be amended to ensure full independence of public media, including through the appointments process to the editorial board and provisions relating to the appointment and removal of editors-in-chief and other senior staff.

²⁹ See Articles 11.1 (6), 11.1 (7), 11.1 (8), 11.2 (2), 11.3 (1), 11.3 (2), 11.3 (3), 20.