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THE AUDIOVISUAL MEDIASCAPE IN GEORGIA AND COOPERATION WITH EUROPE

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Introduction

Provision of media freedom still remains one of the most important challenges in transitive democracy countries, including Georgia. Chapter 18, Part 6 of the June 2014 Association Agreement between Georgia and the European Union is about Cooperation in the Audiovisual and Media fields. Its realistic accomplishment depends on support to media stability and freedom.

Pursuant to the media freedom reports of prestigious international organizations Freedom House, Irex, and Reporters Without Borders, Georgia keeps its leading positions in the region (South Caucasus) with the media labelled as 'partially free'. For example, based on the 2016 report of Reporters Without Borders, the position of Georgia in the Media Freedom Index had worsened by 0.26 points, even though, positionally, the country moved 5 places up from 69 to 64th place. This was a result of worsening media freedom indices in other countries. The report stated the following: "The reforms in recent years have brought improvements to Georgia's media landscape: media ownership transparency, pluralism and an overhaul of the satellite TV broadcasting regulatory body. Violence against journalists is less frequent, although there are often threats. The media continues to be very polarized and, despite some progress, media owners often dictate editorial content. This is a source of concern for the future of the battle in the ownership of the main channels of plurality".

The challenges presented in the report escalated at the beginning of 2017: three powerful Georgian TV channels - Imedi, Maestro TV, and GDS (which is owned by the family of former Prime Minister of Georgia, Bidzina Ivanishvili), fell into the hands of a single owner. The court case is ongoing regarding the ownership of another TV channel, Rustavi 2, which is allegedly controlled by the main opposition party. The possible merging of Rustavi 2 with the above three TV channels is being openly discussed. The person selected by the Supervisory Board of the

Public Broadcaster for the position of General Director previously working as a producer and TV host in TV channels owned by the former Prime Minister, and, through evaluation of non-governmental organizations, selection was carried out non-transparently. There are also problems of financial stability of the media, and data further indicates a decrease in the advertising market.

Together with the internal groupings of broadcasting media and media polarization, in Georgia there is a problem of propaganda, especially on Russian channels. Before and after signing the Association Agreement with the European Union, Georgia saw arise in the spreading of disinformation, from various sources, about Western values and about the West in general (internet, a number of Georgian printed publications, several broadcasters, and on Russian TV channels). Some experts say that anti-Western propaganda is most often spread via Georgian media itself. Public opinion polls show that it is increasing and the influence of the Russian broadcasters is also significant.

Public opinion polls (NDI, IRI) also prove that the major source of information in Georgia is TV broadcasting and that the source of information for 80% of the population is television.

Pursuant to the research carried out by the Social Research and Analysis Institute on the order of the Georgian National Communication Commission, published on December 25, 2015, 47% of the Georgian population watches foreign TV channels, with 75% claiming that they watch foreign TV channels on a daily basis. Over 33% watch Russian TV channel NTV from foreign channels and 22% watch ORT¹.

This percentage shows how important it is to support competition and the stability of local broadcasters.

The influence of Russian TV channels has increased in European countries striving for Euro integration.

The Ukraine crisis and large scale informational, hybrid war worked simultaneously alongside the real war, highlighting the need to fight against propaganda. A number of countries, including Lithuania, Latvia and Ukraine, decided to ban Russian channels and create or activate other legislative norms, although there was no essential result, as the act of banning tends not to affect the spread of propaganda via open satellite platforms and internet channels- in any case allowing people access to Russian TV content.

Considering the situation, the importance of switching from Russian TV channels to other channels is being increasingly highlighted, possible only by strengthening local broadcasters, their competition and stability. It is vital also to increase their attractiveness among audiences. Thus, it is important in what framework of regulations they have to work or will have to work in general.

The present study is based on characteristic methodology, not only an analysis of approaches to the Association Agreement, but also an analysis of challenges for audiovisual media in Georgia.

¹<http://netgazeti.ge/life/104681/>Last seen 9.12.2016

We carried out a study of audiovisual and media regulation documents (on legislative grounds), interviewing representatives of the organizations with an interest in media management and media development, introducing their approaches, and observing components of media stability. We aim to support such cooperation between Georgia and Europe that will strengthen media as an institution, enabling it to fight against propaganda both in Georgia and Europe.

Advertising Environment and Regulations

In 2015, alongside the change-over from analog to digital broadcasting in Georgia (Georgia is the only country in region to have fulfilled the obligation of ITU i.e. instigated a broadcasting reform), broadcasting licensing was annulled and replaced with a simple authorization procedure, thus the number of broadcasters doubled.

Based on recent data, there are currently 64 TV channels in Georgia. Yet, following the growth of broadcasters, the broadcaster advertising market is decreasing. According to Transparency International Georgia, the income of TV channels in 2015 decreased by 33%.

In the same report, Transparency International Georgia names the broadcasting law changes as the reason for the drop in income², whereas the official blame is placed on the Audiovisual Media Service Directive (AVMSD) as required under the Association Agreement with Europe.

The initiator of the legislative changes, which set the advertising time limit, sponsorship and product placement rules, was the National Communication Commission, adopted in February 2015.

The management of Rustavi 2, the leader in the broadcasting market, protested following the legislative changes. The General Director of the TV channel alleged that the motive for the change was not adaptation to the European directive, but financial oppression of a politically opposing TV channel.

During the discussion of the legislative changes, it was revealed how problematic the absence of a translation - an official Georgian version of the European directive - was, leading the parties to interpret the issue diversely.

Adjusting the legislation of Georgia to align with the AVMSD necessitated the establishment of a 20% advertising limit per hour and introduction of sponsorship regulations and rules of product placement, although Georgia was given time to adjust the legislation - until 2018. Further, Article 23 of the AVMSD is underlined separately – a 20% advertising limit per hour and 5 years to implement it, until 2020.

²<https://www.scribd.com/doc/315790610/%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1-%E1%83%A1%E1%83%90%E1%83%A0%E1%83%94%E1%83%99%E1%83%9A%E1%83%90%E1%83%9B%E1%83%9D-%E1%83%91%E1%83%90%E1%83%96%E1%83%90%E1%83%A0%E1%83%98-2016> Last seen 19.12.2016

According to the majority of non-governmental organizations (NGOs) working on media development, for the improvement of user rights, it is essential to determine advertising limits. Yet the overly hasty launching of the regulations, done without adequate study of the local market, was problematic.

While many actors were involved in the process, Georgia lacked a principle point: recent analysis by the European Union of documents regarding audiovisual and media issues shows that the European Commission considers the 2010/13/EU audiovisual media service directive needs reviewing and changing.

In May 26, 2016, the European Commission approved and published a new legislative proposal about the necessity of submitting amendments to the AVMSD. The document was sent for review to the European Parliament and European Council. As the European Commission explained, that necessity is incurred by technological development and the digital environment, when for less regulated internet it is becoming harder and harder to compete with genuinely regulated broadcasting.³

Changes to the AVMSD consequently alter the Article in which advertising limits are determined as 20% per hour for broadcasters acting in Georgia. If the full directive changes are made, the same regimen will be applied as before the February 2015 legislative changes in Georgia: a 20% advertising limit during the whole broadcasting time and not per hour.

The European Commission and Council have yet to conclude public discussions regarding the proposal. The Commission expects that people interested in public consultations will be actively involved in the process of aligning the audiovisual mediascape with the digital era.

The Ministry of Economy and Sustainable Development of Georgia, and the Georgian National Communication Commission, can play an important role in this process. The Commission even declared that “Harmonization of the legislation of Georgia with the legislation of the European Union is one of the principle directions as much for the country as in the activities of the Commission (2015-2017)” -2015 report of the Georgian National Communication Commission, page 16, 2016, Tbilisi. For the purposes of fulfillment of Association Agreement obligations, in 2015, eight operational groups were created to prepare detailed conclusions about the changes that needed to be made in applicable legislative acts in the communication field, although they have yet to begin cooperating with field actors.

Role and Condition of Local (small) TV Channels

Public opinion polls in Georgia show that the influence of anti-western propaganda is stronger within small populations and especially in the regions in which ethnic minorities reside. Pursuant to the studies, the main sources of information in these regions are Russian TV channels and the only thing that never loses popularity is small local broadcasters.⁴

³<https://ec.europa.eu/digital-single-market/en/revision-audiovisual-media-services-directive-avmsd> Last seen 9.6.2016

⁴GPB –Public Opinion Poll, 2016

In many international and local documents on the fight against Russian propaganda (the Liberal Academy, Institute for Development of International Freedom) strengthening of local TV channels in order to fight against propaganda is strongly recommended, although the data shows that the financial conditions of the small broadcasters are worsening year-on-year. As managers of broadcasters explain, one of the reasons for this worsening is the aggravated regulations over their activities.

Today, there are 24 regional, local TV channels and 10 radio stations functioning in Georgia. Most of them (21 TV channels and 5 radio stations) are members of the Georgian Association of Regional Broadcasters (GARB). The history of these broadcasters counts around 20 years and the owners of most of them have never changed. The main source of income of local channels is advertising and grant incomes, yet, according to recent studies, grant income for content generation has decreased.⁵

Georgian legislation regulating audiovisual media unites the large national, open satellite and small local broadcasters homogeneously, notwithstanding the fact that the AVMSD **clearly separates the local broadcasters from those channels with wider coverage.**

Article 2 of the AVMSD clearly states that the directive is not applicable when the audiovisual media service is for receiving/covering in a non-member country and the receiving of which cannot be made via a direct or indirect method in one or more member countries.

We meet the separation of small broadcasters in other chapters of regulation- in Article 18, we read that the requirements of Articles 16 and 17 of this chapter (regarding a minimum 10% quota of European products in broadcasting) do not apply to non-national broadcasters.

Article 25 of the AVMSD states that, considering Article 4 of the Directive, member countries are authorized to set other rules (limitations) under Paragraph 2 of Article 20 and Article 23 of the Directive, for broadcasters which are aired only within their territory and whose broadcasts it is impossible to receive either directly or indirectly in one or more member countries. (These are the articles which verified the broadcaster advertising limits in the legislation of Georgia).

The Ministry of Economy of Georgia, together with the Georgian National Communication Commission, should facilitate the regulations of national broadcasters, by which we mean broadcasters which are aired only within the territory of Georgia and whose broadcasts it is impossible to receive either directly or indirectly in one or more member countries. The facilitation of regulations should first and foremost cover those articles indicated by the AVMSD itself - this is entertainment (mostly films and TV series) quotas, author's rights, and limitation of advertisements.

Today, small broadcasters, due to limited financial resources, are unable to purchase the author's rights of good West-produced films and entertainment programs, resulting in weak broadcasting which is less competitive compared with the Russian broadcasters, which attract audiences with

⁵<http://www.transparency.ge/en/post/general-announcement/advertising-market-report-2016> Last seen 8.1.2017

the entertaining content of their programs. By facilitating these regulations, there will be more diverse broadcasting content at the local level, which will make the local channels better able to compete with the Russian channels.

The stability of small, local broadcasters is also hindered by the TV rating system in Georgia. From 2005 to date, the only company of TV audience measurement on the market was TVMR Georgia, official license holder of international company NIELSEN. In 2016, a new company for TV audience measurement entered the TV rating market – Tri Media Inteligence Ltd, official license holder of international company KANTAR MEDIA.

The existence of two measurement tools, like the existence of two currencies, is thought by some as a factor that may negatively affect the stability of the market. That said, it should be taken into account that the measurement panel of both companies covers only a number of large cities, and people metering is not carried out in small settlements. Moreover, several regions are not included in the panel at all (Kakheti, Kvemo Kartli, Samtskhe Javakheti), including the regions where ethnic minorities reside.

Neither of the measurement companies carries out audience measurement of regional broadcasters, which removes the small regional TV channels from the larger part of advertising turnover, making them financially unstable. Thus, one of the major ways to support their stability and independency is by providing rating measurements to such TV channels. The full study of TV audiences in the regions of Georgia is also vital for the purposes of outlining ways against propaganda and for research-based planning.

Broadcasting Transit and Hate Speech

Pursuant to Article 3 of the AVMSD, a member country should provide free receipt of audiovisual media service to its territory, transferred from another member country, and not limit the transit of their service.

A member country is permitted not to fulfill the demands of this Article if transit of a specific broadcaster exposes underage individuals to harmful influence (Article 27) and/or aggravates hate based on race, language, gender, religion, political views or ethnicity (Article 6).

The European Commission foresees the prohibition of hate speech content and aggravation of regulations in the project of changes to the AVMSD.

The broadcasting law prohibits programs that stimulate conflict and hatred⁶, although the broadcaster is the only one with the privilege and obligation to react to violations as a part of self-regulation.

We see the norms prohibiting conflict stimulating and hate speech in documents regulating e-communication: based on the Law on Communications, the Decree of the National Communication Commission includes a mechanism for removing “inadmissible product”, though this norm has yet to be used to shut down channels spreading propaganda content.

⁶Broadcasting law, Article 56 - <http://gncc.ge/uploads/other/2/2024.pdf>

Many legislative initiatives have been elaborated to limit propaganda, mainly by NGOs, which also emphasize the dangers of limiting freedom of speech and expression.

One such initiative is to use the Moldova Practice, meaning a legislative proposal in which the country is not forced to broadcast the news or TV programs of countries which have failed to ratify the 2002 European Convention on Transfrontier Television.⁷

Such assumption gives ground for prohibiting the broadcasting transit of Russian channels in Georgia, although, as we mentioned above, the precedent of prohibition in general may have a negative influence on quality and the practice of freedom in Georgia. Further, such prohibition would not limit the free coverage of broadcasters via the open satellite system, which is a major tool for the spreading of Russian channels within the territory of Georgia.

Based on information received from authorized operators for broadcasting transit in Georgia (nine operators and two unions of broadcasting operators interviewed to prepare the report), we understand that the majority of users are interested in Russian entertainment content. Further, the purchasing of rights of Russian channel content is seven times cheaper for PAY TV operators operating in Georgia than for that of European broadcasters, which of course influences their choice in what to offer users living in Georgia. Correspondingly, one of the most effective ways to replace Russian TV channels with local broadcasting operators, and to increase the number of local viewers, is by providing acceptable prices on European broadcasters, especially with regards sport and entertainment content.

Supporting European Production

Many articles of the AVMSD refer to and support the airing of European audiovisual production in member countries; we read in the document that in order to reach the abovementioned goal, the government must contribute financially (for example, full or partial procurement of European production placement, subsidizing of airing, etc.).

Pursuant to Article 16 of the AVMSD, member countries where possible support broadcasters to give the majority of the broadcasting time to European production, excluding time for news, sport and entertainment programs, advertisement and TV shopping.

Pursuant to Article 17, at the discretion of the member state, it is possible to provide 10% of the programming budget to European production created by entities independent from the broadcaster.

According to the changes planned for the European Directive, this quota can be increased up to 20%.

Georgian law about broadcasting interprets the term “European production” as a product which is produced in a European country, having ratified the European Convention on Transfrontier Television, or produced in Georgia, or a product the author’s right of which belongs to a resident or legal entity of that country or Georgia.

⁷<http://www.eurasianet.org/node/73271> Last seen 10.23.2015

The relevant authorities should take care that in those countries where the AVMSD applies, Georgian products also come under the term “European product”. This will support the development of audiovisual production in Georgia.

Interviews with the managers of broadcasters (the managers of 20 TV companies were interviewed) showed that Russian audiovisual production (films, TV series, entertainment programs) is cheaper for Georgian broadcasters to buy than European production.

The audiovisual products of those European producers which are directly financed by European countries (BBC, DW, etc.) are expensive and less available to the managers of the local broadcasters. Propaganda of ideas and approaches is seen in such content (entertainment, features, documentaries, animations), thus, European countries should support the availability of the products they finance to partner countries.

Basic Findings

- Cooperation with EU in audiovisual and media fields is fragmental and depends on the spontaneous initiatives of separate authorities;
- Harmonization of Georgian legislation with that of Europe is carried out without deep research of local mediascapes or prognosing of expected results via accelerated application of separate articles.
- Harmonization of Georgian legislation with the Audiovisual and Media Service Directive is ongoing, with minor communications with the European Commission, which plans to propose changes to the AVMSD.
- In specific cases, Georgian legislation sets more aggravated regulations for broadcasters than dictated by the Association Agreement, which hinders the stability of the broadcasters as well as program diversity.
- Audience measurement systems are adapted to and satisfy only the interests of large broadcasters and do not include regional settlements. Populations in the regions, especially those places populated by ethnic minorities, remain unobserved. Audience measurements do not show the full picture of the informational behaviour of the Georgian audience, which hinders the business stability of local non-national broadcasters and makes it impossible to fight against propaganda.
- European audiovisual media content for the Georgian market is less available and more expensive, which makes it difficult to compete with the content produced in Russia and consequently supports the domination of Russian content on the market.

Recommendations

- ✓ In 2017-2018, parties to the European Association Agreement are advised to set cooperation in the audiovisual and media fields as one of the priorities.
- ✓ The European Commission, working on changes to the AVMSD, should elaborate their approaches in the context of both global and local problems of broadcasting media. The role of the Ministry of Economy of Georgia and the Georgian National Communication Commission is essential as both need to study the mediascape of Georgia within the context of the AVMSD and, based on the results, submit proposals to the European Commission.

- ✓ Regulations must be facilitated for those broadcasters which are neither national nor transnational broadcasters and operate only within small territories.
- ✓ The practice of the European Commission and European countries should be studied in terms of fighting against conflict stimulation and hate speech content. Too-strict regulation of violations of program prohibition by broadcasting companies operating in Georgia should not be allowed, as it may incur additional risks in terms of freedom of expression.
- ✓ The relevant authorities should take care that in those countries where the AVMSD applies, Georgian products are also considered as “European” as this will also support the development of audiovisual production in Georgia.
- ✓ The Georgian government needs to support production of audiovisual programs in Georgia which would satisfy the requirements of the European market. Parties to the Association Agreement must strengthen support of local audiovisual content production.
- ✓ The governments of EU member states and Georgia should review the availability of audiovisual content produced in Europe for the Georgian market (meaning high-priced TV channel transit, separate programs such as films and TV series) and should support the provision of airing rights of European films, TV series, and audiovisual products in order to compete with Russian products.
- ✓ Reliable audience measurement should be undertaken not only in the large cities, but also in the regions, especially in ethnic minority settlements. This will support the financial stability of small broadcasters and will create a source for the better study of the informational behaviour of audiences, including in terms of fighting adverse propaganda.
- ✓ The Georgian government, together with EU member countries, should take all necessary steps to support the development of local audiovisual content and the strengthening of competitiveness of local broadcasters, which will be one of the most effective ways to fight against foreign propaganda and provide informational security for European countries.

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5. Tristan Tsutskiridze – Borjomi TV head, Borjomi Broadcaster;
6. Maia Ivelashvili – Head of “Ninth Channel” Akhaltsikhe;
7. Valik Ktoiani – Head of TV 12 of Akhalkalaki;
8. Maia Tatulashvili – Head of TV channel “DIA”, director of cable TV
9. Ramaz Gamezardasvhili – Head of Chiatura “Imervizia”, Head of Zemo Imereti broadcasting network.
10. Tamar Gvinianidze –Head of “RIONI”, Kutaisi, Imereti Broadcaster;
11. Marina Jugeli – Head of TV Channel Argo, Zestaponi, owner of Zestaponi broadcasting network
12. Otar Tevzadze – Head of TV Channel ZARI, Samtredia, operator of broadcasting network;
13. Avtandil Gvelebiani –Director of TV Channel “GURIA”, broadcaster in Guria Region;
14. Germane Salia – Director of “Ninth Channel”, Poti, Head of Samegrelo Broadasting Network;
15. Merab Chikobava – Director of “EGRISI” Senaki TV Channel;
16. Neron Katcharava – TV Channel “Kolkheti 89”
17. Kakha Kvaratskhelia – Head of TV Channel “Jikha”
18. Gocha Minjoraia – TV Chennel “ODISHI”, Broadcaster network operator;
19. Murtaz Prangulashvili – Head of TV Channel “25th channel”
20. Teona Beruashvili -Executive Director of Cable Television Union
21. Ucha Seturi - Executive Director at Small and Medium Telecom Operators Association of Georgia.