

## **Bill to Empower State Agencies to Revoke Journalist Accreditation Passed**

### **State Reply**

**180/200**

Two members of the National Assembly of Armenia A.Hovhannisyan and L. Minasyan submitted to the National Assembly of Armenia by parliamentary initiative a draft law of amendments to be made to the existing RA “Law on Mass media” (hereinafter referred to as the Draft law) which provides for the governmental authority that has accredited the journalist to terminate the latter's accreditation. In the initial version of the Draft law, however, the grounds for revoking journalist's accreditation were not envisaged. Upon discussing the Draft law, the Government proposed to envisage by law the grounds for revoking journalist accreditation by the government institution that has accredited the journalist on its own initiative.

Based on the Government’s proposal, the Draft law was amended to state that the accreditation can be revoked by the government institution that has accredited the journalist on its own initiative on the following grounds, the violation of the accreditation procedure or the violation of work order of that institution. Moreover, the law has set a high bar that the accreditation can be revoked only if the journalist violates these rules for a second time within one year after having received a written warning for violating the mentioned rules.

It should be noted that also based on the Government's recommendation, actually the legislation has been improved in this regard, because currently, the Government's Resolution 333-Ն of March 4, 2004, which defines the model procedure for the accreditation of journalists in government institutions, envisages regulations for revoking of journalist accreditation at the initiative of that institution. However, the legislative basis of revoking accreditation was envisaged by this very same legislative amendment.

It is noteworthy, that based on documents of recognized international organizations dealing with human rights, including the protection of freedom of expression, as well as from the precedents of the European Court of Human Rights (hereinafter referred to as the ECtHR), revoking journalist accreditation as such is not prohibited and is not viewed as a violation of journalists' freedom of expression.

In particular, the ECtHR considers revoking journalist accreditation as a restriction of freedom of expression defined by Article 10 of the European Convention for the Protection

of Human Rights and Fundamental Freedoms (hereinafter referred to as "ECHR"), which, like other restrictions of fundamental rights, must meet the following three conditions:

- the restriction must be prescribed by law,
- it must pursue a legitimate aim defined by law,
- it must be necessary in a democratic society<sup>i</sup>.

In the case of *Gauthier v. Canada* (1999), the UN Human Rights Committee has stated that the relevant criteria for the accreditation scheme should be specific, fair and reasonable, and their application should be transparent<sup>ii</sup>.

According to the Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the Organization of American States Special Rapporteur, accreditation should never be subject to withdrawal based only on the content of an individual journalist's work<sup>iii</sup>.

As can be seen, revoking journalist accreditation is seen in international practice as a restriction of the exercise of the right to freedom of expression, which must comply with the basic requirements for human rights restrictions and predetermine its legality. Based on the above, revoking journalist accreditation isn't prohibited within international practice; it simply must conform to certain standards.

In this context, it must be noted that revoking journalist accreditation, as a restriction of freedom of expression, prescribed by the Draft law is in accordance with the criteria established by the aforementioned international institutions and the judicial practice of the ECtHR. Particularly, it is prescribed by law, aims to ensure the most effective cooperation between media activity providers and government institutions, as well as the normal functioning of the latter. Accreditation can be revoked only in certain specific cases, on the grounds of violation of the accreditation procedure and work order of the relevant government institution. Moreover, the law also ensures the proportionality of the restriction in question, because according thereto, accreditation can be revoked only if the journalist violates those rules for a second time within one year after having received a written warning for violating the relevant rules. In the context of the regulation in question, an important guarantee for the protection of journalists' right to freedom of expression is also the regulation provided by the above-mentioned Government Regulation No. 333-Ū of March 4, 2004 that the accrediting government institution does not censor the professional activity of an accredited journalist in any form or by any means.

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<sup>i</sup> Andre Loersch and Nouvelle Association du Courrier v. Switzerland, nos, 24 February 1995. Mándli and Others v. Hungary, 26 May 2020. Gafiuc v. Romania, 13.10.2020. *Magyar Helsinki Bizottság v. Hungary*, 8 November 2016.

<sup>ii</sup> Robert W. Gauthier v. Canada, Communication No 633/1995, U.N. Doc. CCPR/C/65/D/633/1995. 5 May 1999.

<sup>iii</sup> The Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. Adopted in 18 December 2003.