[GE] New Concept of Freedom of Speech and Expression

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On 24 June 2004 the Georgian Parliament adopted and President Mikhail Saakashvili signed into legal force the Statute "On Freedom of Speech and Expression". The new Act replaces the Statute of Georgia "On the Press and other Mass Media" of 1991. The Statute consists of 5 Chapters and includes 21 Articles. Unlike the Statute "On the Press and other Mass Media" the new Statute does not regulate the specifics of functioning of the mass media outlets. The mass media entities hereafter shall be considered and treated as regular commercial enterprises. The new Statute stipulates guarantees of freedom of thought, speech and expression, establishes grounds and criteria for the restriction of these freedoms, sets the standard of proof of the necessity of such restrictions, introduces a nine-point exhaustive list of issues subject to regulation by law, provides protection of confidentiality (including protection of journalistic sources), and sets out the specific rules for proceedings in defamation lawsuits. The Statute introduces a number of substantial innovations. First, it provides explicitly that the Constitution of Georgia, the European Convention on Human Rights and Fundamental Freedoms, and the case law of the European Court on Human Rights, shall have priority over the legislation of Georgia (Art. 2). Second, the freedom of expression of administrative (governmental) agencies and public figures shall be subject to some limitations. According to Article 3 of the Statute everybody except administrative agencies shall enjoy freedom of expression. Defamation disputes shall not deal with the protection of the nonproprietary rights of administrative agencies (Art. 6). According to Article 14 public figures shall be obliged to prove in court proceedings on defamation that the defendant maliciously disseminated information containing essentially wrong facts. At the same time the law introduces provisions guaranteeing freedom of political debates, namely immunities for political speech in the parliament and speeches in court (Art. 5). Third, the statute implements the principle of public interest. The aim of protection of public interest shall be considered as grounds for partial or absolute protection from liability in cases of defamation (Art. 15) and disclosure of secret information (Art.12).

The Statute of the Republic of Georgia on Freedom of Speech and Expression

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