

МІНІСТЕРСТВО
ЗАКОРДОННИХ СПРАВ
УКРАЇНИ

Михайлівська площа, 1
м.Київ, 01018, Україна



tel: (38044) 238 17 77 fax: 238 18 88
e-mail: zsmfa@mfa.gov.ua
www.mfa.gov.ua

MINISTRY
OF FOREIGN AFFAIRS
OF UKRAINE

1, Mykhaylivska sq.,
Kyiv, 01018, Ukraine

«28» September 2012

Mr. Oliver Bassile
Secretary General
Reporters without Borders

Dear Mr. Secretary General,

Referring to your open letter to the members of Ukrainian Parliament, dated 2 August 2012, I have the honour to inform you on the current situation in the field of freedom of information in Ukraine.

The issues of accumulation, storage, use, dissemination and protection of information are regulated by the Constitution of Ukraine and the Law on Information. Article 2 of the Law on Information provides for the principles of legality of accumulating, using, disseminating, storing and protecting of information are observed. Article 3 of the above Law stands for equal opportunities for creating, accumulating, receiving, storing, using, disseminating and protecting of information.

In accordance with paragraph 4 of Article 32 of the Constitution of Ukraine everybody is guaranteed the right to refute false information about himself and his family members and the right to request removal of any information, and the right to compensation for material and moral damage inflicted by the accumulation, storage, use and dissemination of such false information.

Also, everyone has a right to freedom of opinion and speech, freedom of expression of their views and beliefs.

Everyone has the right to freely accumulate, store, use and disseminate information by oral, written or other means of his choice.

These rights may be restricted in cases prescribed by law in the interest of national security, territorial integrity or public order, prevention of crimes, protection of health, protection of reputation or rights of others, prevention of disclosure of confidential information, or for maintenance of authority and impartiality of the system of justice (Article 34 of the Constitution of Ukraine and paragraph 2 of Article 6 of the Law).

However, the realization of the above rights should not violate freedoms and rights of others. In case of violation of the mentioned rights disciplinary, civil, administrative or criminal responsibility follows (Article 27 of the Law).

Article 24 of the Law prohibits censorship.

It is important to mention that pursuant to Article 30 of the Law no one can be held responsible for expressing value judgments, i.e. expressions that are not based on facts, are of critical or evaluating content and cannot be relied on given the nature of language and stylistic devices. They are not subject to refutation or proof of their veracity.

However, if a person believes that certain value judgments or opinions degrade his honour or reputation and other moral rights, this person is entitled to reply, as well as to give his interpretation of the matter in the same media to explain that the disseminated information is groundless by giving it a different assessment. If one's subjective opinion is expressed in a brutal, humiliating or improper manner and degrades another person's honour or reputation, this person shall be obliged to compensate damages (Articles 23, 297 and 299 of the Civil Code of Ukraine).

Regarding the draft law, introduced by Vitaliy Zhuravskiy, I am glad to inform you that the concerns of international community have been seriously taken into consideration by the Ukrainian leadership. Party of Regions MP V.Zhuravsky has registered a draft resolution on the cancellation of a recent decision by the Verkhovna Rada to pass at first reading the bill on amendments to the Criminal Code and the Criminal Procedure Code of Ukraine on slander punishments.

President of Ukraine V.Yanukovych has welcomed this decision and said that passing a bill was a mistake. "Ukraine should stick to European standards in all spheres", the President told journalists in New York on 25 September 2012.

Moreover, I bring your attention to the fact that slander and offense were decriminalized by the 2001 Criminal Code of Ukraine. Draft laws on introducing criminal responsibility for slander have been already registered in the Verkhovna Rada several times in the past (in 2003, 2004, 2006, 2008 and 2010). However, all of them have been respectively withdrawn.

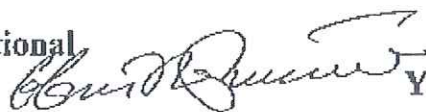
On September 6, 2012 the Verkhovna Rada of Ukraine adopted the Draft Law of Ukraine "On amendments to some legislative acts of Ukraine in connection with the adoption of the Law of Ukraine "On information" (as amended) and the Law of Ukraine "On access to public information" (№ 10455 dated May 14, 2012) at first reading, proposing to strike out the third paragraph of Article 277 of the Civil Code of Ukraine, pursuant to which negative information disseminated about a person is considered false and unreliable unless the person who disseminated it proves otherwise.

Ukraine is strongly committed to its European integration course and undertakes all necessary structural reforms to meet the European standards.

Please accept, Mr. Secretary General, the assurances of my highest consideration.

Sincerely,

Ambassador-at-large
for cooperation with international
civil society organizations



Yevgen Perebyinis