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# Legal Comparison of Freedom of Expression and Freedom of the Press in the Republic of Armenia and in the Republic of Poland[1]

## *Swoboda wypowiedzi i wolność prasy w Republice Armenii i Rzeczypospolitej Polskiej w aspekcie prawnoporównawczym*

SUMMARY

Freedom of expression and freedom of the press form guarantee and emphasize the democratic character of a state. The dissemination of information and opinions is a prerequisite of democracy, which essentially requires that citizens be guaranteed the possibility to participate in public affairs. An opportunity to learn some information and opinions is of paramount importance for broadening knowledge, sharpening the critical mind, shaping one's own views and making rational and informed choices. For full access to information and opinions circulating in the public, it is necessary that it should be made public and media and their journalists will make it in the best way. The aim of this study was to compare constitutional legal solutions concerning freedom of expression and freedom of the press and the way they are effectuated in practice in the Republic of Armenia and in the Republic of Poland.

**Keywords:** freedom of expression; freedom of the press; press activity; tasks of journalists; access to public information; contemporary threats

[1] The article is the result of an academic internship in 2019 at the Eurasia International University in Yerevan financed by the Polish National Agency for Academic Exchange (contract No. PPN/BIL/2018/1/114/ARM/UMOWA/1).

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## INTRODUCTION

The research described in this study was carried out primarily on the basis of a diagnostic survey method using the technique of direct interview with representatives of the mass media and organizations involved in monitoring freedom of expression and press freedom in Armenia. Diversification of the research group allowed to achieve information from independent sources, allowing to present the subject of the study in a way that takes into account different opinions about it. The opinions of experts embedded in the realities of life in Armenia, with their knowledge and extensive experience in the functioning of the mass media, made it possible to present the title issue in a reliable and comprehensive manner in the context of the activities of the mass media in practice. This is of great cognitive importance, especially since the issue of freedom of expression and press freedom in Armenia is outside the mainstream scientific interest. The study also used the dogmatic method, limiting its scope to the constitutions of the countries being compared, which define the guarantees of freedom of expression and press freedom and the rules of exercising them. In both countries, constitutions are the most important normative acts. A comparative method was also used to compare the legal solutions in force in both countries and their application in practice, and to determine the understanding of freedom of expression and press freedom and their practical implications.

## THE ESSENCE OF FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS

Freedom of expression and freedom of the press are regarded as a foundation and a guarantee of democracy. The possibility to use freedom of expression, even if the disseminated information and the expressed opinions seem controversial, is necessary for the protection of human rights and for the proper functioning of a civic society. Communication and free public debate are a guarantee of freedom and civil liberties. Freedom of expression is not only a vital right on its own, but also it is essential for empowering individuals and enabling them to protect and promote all other human rights. It is essential to the existence of civil society because it enables people to express their political opinions and engage in critical discussions. The exercise of the right to freedom of expression, however, requires an "environment […] where all can speak freely and openly, without fear of reprisal"[2].

[2] Joint Message by the UN Secretary-General and the UNESCO Director-General for the 2013 Observance, 3 May 2013, www.un.org/sg/en/content/sg/statement/2013-05-02/joint-message-secretary-general-un-ban-ki-moon-and-ms-irina-bokova [access: 30.03.2019].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



A free person must be able to communicate freely and to articulate his or her opinions without any obstacles – either directly or through the press. This term comprises all technical forms of mass media and journalists creating media communication. Their role in any country, regardless of the political system, is enormous because they can promote the official point of view and justify the activities of public authorities or question them and present any abuse committed by public authorities. It is beyond doubt that a democratic state is the one which allows the functioning of various forms of control over activities of people who have power on behalf of the sovereign. The basic form of control is the activity of specialised organs of the state. However, they will not always be able to properly carry out their duties. In the case of a serious weakness of organs of the legislative, executive and judiciary branches, it is the press, referred to as the "fourth estate" that plays an enormous role in seeking the truth. The implied meaning of this term reflects a deep conviction that the press can have a real influence on making state decisions. It is because the press is a factor which controls state organs by informing the public about the activities undertaken by them. In this way, it broadens the knowledge of citizens and allows them to constantly and consciously participate in public life[3].

In a democratic society, one cannot disregard the opinions expressed by the public. The independent and impartial press guarantees citizens the option of expressing their will in the fullest way possible. In this way, it fulfils the principle of political pluralism. Thanks to the press, society gains an opportunity to influence those who have been entrusted with the care of the general good. Therefore, it is no surprise that everyone in power, regardless of ideology, tries to have an influence on the press as thanks to this they can shape social attitudes and behaviour which they need and promote their vision of public order and organization of the state. Such activities are typical of all persons in power. The aim of this study is to compare the constitutional legal solutions concerning freedom of expression and freedom of the press and the way they are realised in the Republic of Armenia and in the Republic of Poland.

## CONSTITUTIONAL GUARANTEES OF FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS IN THE REPUBLIC OF ARMENIA AND THE REPUBLIC OF POLAND

The analysis of the issue identified in the topic of the work should start with some basic information about the countries of interest. There is no doubt that the geopolitical context and the size of the country influence the way the media market is organized and the approach to freedom of expression and press freedom. The choice of the topic

[3] W. Lis, *Wolność wypowiedzi gwarancją demokracji*, „Studium Vilnense A" 2010, t. 7, p. 31.

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Data: 18/11/2026 15:56:39



of the work was influenced by the author's stay at the Eurasia International University in Yerevan, the capital of Armenia. Due to the knowledge of issues related to freedom of expression and press freedom in Poland, the author's intention was to examine the state of respect for freedom of expression and press freedom in Armenia, therefore most of the comments refer to the situation in the examined area in Armenia.

The Republic of Armenia is located in south-west Asia, it borders four countries: Georgia in the north, Azerbaijan in the east, Iran in the south and Turkey in the west. It has no access to the sea. Its largest body of water is Lake Sevan located at an altitude of 1,900 meters above sea level, of an area of about 1,260 km². Armenia has a population of about 3 million people, 98% of whom are ethnic Armenians. After the collapse of the USSR, since the moment it regained its independence on 21 September 1991, Armenia has been a democratic state, a parliamentary democracy[4].

The Republic of Poland is located in the very heart of Europe (the geometrical centre of Europe lies in Poland), it borders seven countries: Russia in the north-east, Lithuania, Belarus and Ukraine in the east, Slovakia and Chech Republic in the south and Germany in the west. In the north, it is surrounded by the Baltic Sea. Its largest inland lake is Śniardwy Lake with an area of about 114 km². Poland has a population of about 39 million people, 98% of whom are ethnic Poles. Poland was the initiator and leader of system changes in Central Europe which led to the collapse of the Soviet Union. Poland is a democracy, a parliamentary republic[5].

The legal system of Armenia is defined by the Constitution of the Republic of Armenia of 5 July 1995, which holds the highest position within normative acts. Freedom of expression and freedom of the press are guaranteed by Article 42, according to which: "1. Everyone shall have the right to freely express his or her opinion. This right shall include freedom to hold own opinion, as well as to seek, receive and disseminate information and ideas through any media, without the interference of state or local self-government bodies and regardless of state frontiers. 2. The freedom of the press, radio, television and other means of information shall be guaranteed. The State shall guarantee the activities of independent public television and radio offering diversity of informational, educational, cultural and entertainment programmes. 3. Freedom of expression of opinion may be restricted only by law, for the purpose of state security, protecting public order, health and morals or the honour and good reputation of others and other basic rights and freedoms thereof"[6]. This means that neither freedom of expression nor freedom of the press are

[4] Central Intelligence Agency, *The world factbook: Armenia*, www.cia.gov/library/publications/the-world-factbook/geos/am.html [access: 28.12.2019].

[5] Central Intelligence Agency, *The world factbook: Poland*, www.cia.gov/library/publications/the-world-factbook/geos/pl.html [access: 28.12.2019].

[6] Constitution of the Republic of Armenia of 5 July 1995, www.parliament.am/parliament.php?id=constitution&lang=eng [access: 28.12.2019].

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Data: 18/11/2026 15:56:39



absolute in character, there are restrictions as provided by the act because of their purpose, determined by the protection of public interest, on condition that they are convincingly justified. The legislator protects not only the contents of information and opinions, which should be objective, trustworthy and complete, but also the way they are disseminated, freedom to obtain and transmit them. Freedom of the press was strengthened by the guarantees of Article 51, under which: "1. Everyone shall have the right to receive information and get familiar with documents relating to the activities of state and local self-government bodies and officials. 2. The right to receive information may be restricted only by law, for the purpose of protecting public interests or the basic rights and freedoms of others. 3. The procedure for receiving information, as well as the grounds for liability of officials for concealing information or for unjustified refusal of providing information thereby shall be prescribed by law". This means that the Constitution of the Republic of Armenia satisfies the requirements of pluralism and tolerance, without which there would be no democratic society or a state of law. The accepted solutions raise no objections. With respect to normative acts, freedom of expression and freedom of the press in Armenia are guaranteed in a way adequate for democratic states.

In Polish law, freedom of expression and freedom of the press are guaranteed by Article 54 of the Constitution of the Republic of Poland of 2 April 1997[7], which is the highest law. Pursuant to this article: "1. The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone. 2. Preventive censorship of the means of social communication and the licensing of the press shall be prohibited. Statutes may require the receipt of a permit for the operation of a radio or television station". Preventive censorship means prior control of a publication done by a specialist authority, which can result in it being withheld and its dissemination banned. Whereas the licensing of the press means that the ability to publish newspapers and magazines or radio and televisions programmes is subject to prior permission of the authorized authority. These two ways of restricting freedom of expression and freedom of the press are absolutely forbidden as they violate the essence of these freedoms[8]. Freedom of expression remains in an obvious connection with freedom of the press, which is also mentioned in Article 14 ("The Republic of Poland shall ensure freedom of the press and other means of social communication"). Freedom of the press and other means of social communication, as mentioned here, basically emphasize a special form of freedom as defined by Article 54[9]. Means of social communication are treated as a tool necessary for civic discourse, an exchange of information and opinions and their dissemination and, what is more, are also a form of social control over public au-

[7] Journal of Laws 1997, No. 78, item 483 as amended.
[8] Judgement of the Constitutional Tribunal of 20 February 2007, P 1/06, LEX No. 245357.
[9] Judgement of the Constitutional Tribunal of 30 October 2006, P 10/06, LEX No. 210825.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



thorities[10]. Guarantees contained in these two articles make it possible to combine individual and collective freedom of expression. Freedom of expression in the individual dimension serves the intellectual improvement of the individual, the development of his or her personality and self-fulfillment, while in the collective dimension it is a necessary requirement for the functioning of democracy because it enables public debate to take place, it allows an articulation of their needs by the sovereign and the control of persons who are in power on behalf of the sovereign[11]. However, it should be stressed that neither freedom of expression nor freedom of the press are absolute in character and are limited under conditions defined in Article 31 (3), under which: "Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights".

Constitutional guarantees contained in the Constitution of the Republic of Armenia and the Constitution of the Republic of Poland clearly indicate that the transfer of information and opinions is a necessary prerequisite of democracy because a real democracy requires that citizens be guaranteed a possibility to actively participate in public affairs. Such participation would be impossible if citizens had no quick access to full and reliable information concerning public affairs and opinions concerning them which are required and which should be provided to them by the press and other means of social communication[12]. It should be added that freedom of expression as realised by the press, constituting one of the basic pillars of civic society, one of the basic prerequisites of its advancement and the development of each individual, cannot be limited only to information and opinions which are perceived as favourable, regarded as non-offensive or neutral but it equally also refers to those which offend, outrage or introduce anxiety to the state or some part of society. These are the requirements of pluralism, tolerance, openness to other views, without which there is no true democracy[13]. Thanks to free press and means

[10] Judgement of the Constitutional Tribunal of 9 November 2010, K 13/07, LEX No. 612153.

[11] Judgement of the Constitutional Tribunal of 11 October 2006, P 3/06, LEX No. 210809.

[12] W. Lis, *Wolność prasy i innych środków społecznego przekazu jako zasada ustrojowa*, „Studia Medioznawcze" 2012, nr 4, p. 19.

[13] Judgement of the European Tribunal of Human Rights of 7 December 1976 in the case of *Handyside vs The United Kingdom*, Application No. 5493/72. The opinion that freedom of expression is the foundation of a democratic state and pluralistic society was confirmed and later consolidated in subsequent decisions developing this line of judicature of the European Court of Human Rights. See, among others, judgement of the European Tribunal of Human Rights of 8 July 1986 in the case *Lingens vs Austria*, Application No. 8815/82; judgement of the European Tribunal of Human Rights of 23 April 1992 in the case of *Castells vs Spain*, Application No. 11798/85; judgement of the European Tribunal of Human Rights of 1 July 1997 in the case *Oberschlick vs Austria*, Application No. 20834/92.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



of social communication we have a possibility to learn about the wide range of information and opinions which enable their recipients to fully, consciously and reliably participate in public life. Nevertheless, freedom of expression is wrongly equated with freedom of the broadly understood press. It is wrong to use these terms interchangeably because they are neither identical nor synonymous. Freedom of the press applies only to the press whereas freedom of expression applies to citizens and other entities, including the press.

Bearing this in mind, it should be noted that according to Reporters Without Borders in 2019 Armenia occupied the 61st position while Poland was 59th among 180 countries in the World Press Freedom Index[14]. This means that both countries were assessed the same with respect to observing freedom of expression and freedom of the press. Therefore, in the context of the mentioned constitutional guarantees, a question arises whether freedom of expression and freedom of the press are indeed present in the public space, particularly in journalistic activity. The answer to this question will make it possible to evaluate the functioning of the constitutional guarantees in practice. The question is of special importance for Armenia considering the changes initiated by the "velvet revolution", which took place in the first half of 2018. Spontaneous mass anti-government protests led to a change of the political system of the country and raised expectations concerning the actual and not declarative realization of the exercise of the liberties and rights of man and citizen. What adds piquancy is the fact that as a result of the "velvet revolution" the power in the country was seized by the leader of the opposition – N. Pashinyan, who is a journalist by profession.

## PRACTICAL ASPECTS OF FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS IN THE REPUBLIC OF ARMENIA AND THE REPUBLIC OF POLAND

The academic scholarship at the Eurasia International University in Erevan, the capital of Armenia, the observations I made there and the talks I held with representatives of the press and non-governmental organizations concerned with monitoring the observance of civil liberties allows me to formulate a few polemical remarks. At first sight, it seems that Armenia is free from problems from those present in Poland. The press market is varied in all respects, which reflects a variety of worldviews. Thus, the legislator must consider the existence of many differently oriented media, which ensures information pluralism. Critical views on various topics are expressed freely both in the printed press and in electronic

[14] Reporters Without Borders, 2019 World Press Freedom Index, https://rsf.org/en/ranking# [access: 28.12.2019].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



media. However, there are topics which are either completely omitted in the public debate or are presented in a neutral way. It is matters regarded as "state or national interest" that are taboo. They also include Armenian-Russian relations. In the context of Armenia's economic dependence on Russia and the presence of Russian troops, which are a guarantee of Armenia's security, Armenian-Russian relations are mentioned, simplified or presented in such a way that, on the one hand, they do not create the impression that Russian policies determine or at least influence Armenian matters and, on the other one, do not openly oppose Russian policies. This is the result of the complicated geopolitical situation of Armenia, which is surrounded on three sides by Muslim countries; with two of them – Turkey and Azerbaijan – it practically has no diplomatic relations, whereas it competes with Christian Georgia (in conflict with Russia over the occupation of the north-west part of its territory) for domination in the region. Within such a regional array it comes as no surprise that Armenia seeks its security with Russia, whose military presence keeps the neighbours at bay and ensures relative peace and order basically in the whole Caucasus region.

What remains a serious challenge is the issue of access to public information. Despite the fact that guarantees of access to public information are basically identical to the solutions operating in Poland, the practice is diametrically different. Both citizens and journalists encounter many problems and difficulties obtaining this sort of information. One of the main reason for this state of affairs is the fact that officials employed by authorities and institutions obliged to provide information do not provide it because they do not know law, they lack the awareness of the obligation they have to provide the information and to serve an ancillary and not the dominating role in society. It is commonly demanded that the purpose of the requested information be given, while formally the legislator has not predicted such an obligation, quite the opposite, it bans the request for the purpose of the requested information[15]. A refusal to provide information without any justification or providing incomplete information whose usefulness is scarce is not an exception. When a request for information is made electronically, the information is not given at all because such applications are regarded as unsigned and as a result they are ignored[16], which I experienced personally. Moreover, authorities and institutions refuse to provide information of a sensitive character, justifying the refusal by saying that it contains some unspecified secrets, not giving any details about the type of secrets. As a rule, information is given late (which is of special importance

[15] Information from the annual report of the Human Rights Defender (Ombudsman) of the Republic of Armenia for 2018 provided by the Office of the Human Rights Defender (Ombudsman) of the Republic of Armenia on 24 June 2019 (in the author's possession).

[16] G. Balasanyan, *Freedom of Information and Media Law in Armenia 2016*, https://hetq.am/en/article/79755 [access: 28.12.2019].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



because of the time which influences its up-to-date nature) or the information which is given helps to create a positive image of the authorities or institutions providing it. Evading the release of public information or filtering it is a form of censorship. Consequently, access to public information is formal, which in the context of the purposes and functions of the press is a serious problem. In the meantime, the right of access to public information gains legal importance substantively because in journalistic activity facts and information are the most important, as is the model of reality created with their help. Lack of information or obtaining incomplete or specially prepared information limits the society's right to be informed and creates a false image of reality. This, in turn, undermines trust in the press and creates the foundations for all sorts of conspiracy theories. Because it is beyond any doubt that avoidance of the realization of the information obligation gives rise to speculations that authorities and institutions which carry out public tasks are not sincere with their intentions, are not driven by the public good but only try to leave some facts unsaid or simply hidden from the public, especially those which are perceived as unpopular and which can face strong opposition of the general public or which can just be the cause of general dissatisfaction, which usually finds a vent in street riots.

A serious problem which does limit freedom of expression and freedom of the press is a very small advertising market, which in consequence leads to competition for advertisers and subsequently to attempts to keep the advertisers at any costs, including for the price of the truth in press coverage. A small advertising market means that the media present the opinions of those, who by placing their advertisements in them, provide them with funds necessary for their survival and some form of functioning. This, in turn, makes the media dependent on the advertisers and leads to a situation in which the media become the mouthpiece for those who provide them with the means of survival and functioning, which translates to far-reaching compromises, very often at the expense of the truthfulness of information or leaving things unsaid which, if revealed, could threaten those on whom the media depend.

In Poland, where the advertising market is very big, the media do not have to seek advertisers or to base the type or form of providing information and opinions on them. It should be also mentioned here conscious and demanding recipients, who have the possibility to verify the information easily in other sources and to abandon publishers who act as instructed by advertisers. In Armenia, where money from advertising comes from the Russian capital, the source of the dependence is obvious. Financial dependence on advertisers leads to paradoxical situations when the same media during one year present extreme ideologies, completely opposing points of view and assessments of situation. The financial dependence does not allow the press to play a pluralistic role within the space of public dialogue and subjects them to the requirements of free-market of interests. What should be added here are business circles which can afford advertising, very strongly connected with people who are in power. Ultimately, the alliance of business and politics is reflected in the

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



contents of media coverage[17]. Consequently, the coverage in media which reaches the recipients is not objective. Financial dependency has led to the polarization of the programme lines of media, which by publishing materials concerning various aspects of public life, more often than not openly favour programmes presented by particular political parties. In short, the editorial policies of the main media agree with the interest of those who are responsible for their survival and functioning. Thanks to this, the origins of funds of particular media are known together with whose interests they represent. This dependence is deepened by the tendency for the media to be taken over by oligarchs in order to influence the general public in the desired way[18]. In this situation, it is not surprising that journalists comply with intra-editorial censorship determined by the views of the owner or advertiser[19]. This leads to the monopolization of the media, which is a threat to informational pluralism and therefore leads to the limitation of variety and the lowering of the quality of offered programmes.

In this context, there also appears the problem of subordinating journalists by the form of employment. It is connected also with the issue of the independence and trustworthiness of journalists. In Armenia, they are frequently employed full-time without a contract of employment, which makes them completely dependent on the will of their editors and owners of the media[20]. In Poland, there are no major problems with the employment of journalists, which does not mean that they are not present at all. This leads to self-censorship of controversial issues and consequently to the narrowing of space for issues concerning worldviews. When journalists are dependent on those who decide what is to be the subject of their interest and how they are to present it to the general public, it is difficult to talk about reliable information ensuring openness of public life and exercising social control or journalists fulfilling tasks resulting from the aforesaid. For financial reasons journalists "agree" to act in the capacity imposed on them by those who decide about the quality and standard of their life and their close ones. Eventually, journalism is an occupation which is to provide means of support to the journalist and their family. But this must not mean total submissiveness, journalists must be aware that political processes and people in power change, disappear in the next elections and they, journalists, remain in the public sphere. The prerequisite for an effective and useful activity is credibility which they work for all their life with their

[17] Information obtained on 5 March 2019 during an interview with B. Navasardyan, President of Yerevan Press Club.

[18] Information obtained on 12 March 2019 during an interview with S. Doydoyan, Director of Freedom of Information Center of Armenia.

[19] Information obtained on 1 March 2019 during an interview with A. Ishkhanyan, Chairman of Helsinki Committee of Armenia.

[20] Information obtained on 5 March 2019 during an interview with B. Navasardyan, President of Yerevan Press Club.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



choices, attitudes, behaviour. In the world of mutual dependencies and connections, in which the boundaries of decency disappear, there is a blurring of values which so far have defined the standards of honest behaviour and a sense of responsibility for the contents of press material, it is not difficult to lose credibility. However, reputation and credibility which have been lost cannot be recovered. Therefore, if a journalist wants to be important, wants to remain faithful to the ideals of ethical journalism, these values must be preserved by them[21]. Of course, it is not easy and demands that very often choices must be made with dramatic consequences, but which are still necessary.

There is a close connection between economic dependence and the presence of Russian or Russian-speaking media on the Armenian market. Despite the fact that in a democratic society a variety of worldviews together with information pluralism connected with it is not unusual, because of the historical, political and economic contexts the presence of Russian or Russian-speaking media on the Armenian market is of special importance. The existence of the media makes it possible for their decision-makers to influence the way of perceiving and consequently of presenting reality from the angle of Russian interests. Such a state of affairs is also made easier by ignorance of foreign languages (only Russian, if any) by a large group of Armenian journalists and lack of own foreign correspondents, which consequently means using information gathered and adequately processed by Russian correspondents. Therefore, it comes as no surprise that any knowledge of the world is gained through its vision presented by Russians. This, in turn, influences the perception and assessment of the presented information and opinions. Thanks to this they can be adequately modified. Russian or Russian-speaking media, by transferring patterns and ways of thinking typical of Russians influence the Armenian public opinion and the way they perceive the world. Dependence on information not only limits journalists but also closes the whole nation in an "information cage". There is no doubt that Russia, by financing Russian and Russian-speaking media, is driven by its desire to achieve the goals of its own policy and not the Armenian ones, which is of course fully understandable, and therefore it needs that the general public be disinformed[22].

The source of many problems both in Armenia and in Poland is lack of a legal definition of the press. Such a situation not infrequently causes problems connected with the impossibility of holding journalist responsible because if it is not known what the press is, it is also unknown who to hold responsible. This is of significant importance, especially because journalists cannot or do not want to define the lim-

[21] Information obtained on 20 March 2019 during an interview with M. Movsisyan, President of A1+ TV Company.

[22] Information obtained on 20 March 2019 during an interview with M. Movsisyan, President of A1+ TV Company.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



its of freedom of expression, frequently crossing these limits, violating personal goods of those who are in the centre of their attention or use hate speech against those who think differently. An attempt to defend against journalists' attacks is reduced to activities aiming at reducing freedom of speech and freedom of the press. Therefore, public prosecutors and courts address this issue very carefully, not wanting to endanger either side, not wanting to become a censor of freedom of expression and freedom of the press[23]. This, in turn, leads to a brutalization of language, customs, public life and also to the overwhelming feeling of being powerless against journalists. Hate speech, particularly against public persons, spreading untrue information undermining the authority of people in power, antagonization of society, public defamation or interfering with the private sphere are all common practice. Journalists cannot and do not want to draw the boundary between the public and private spheres. Despite their knowledge of ethical principles concerning the functioning of the press, in reality journalists do not observe them. At the same time, journalists use freedom of expression under the same conditions as all the other citizens, they do not have any privileges with respect to this[24]. They regularly ignore their legal obligations, which is the result of the opinion that journalists can do more and regulations concerning others will not be applied to them restrictively. There is some misconception that journalists, because of their occupation and of the means they use in their activity, can do everything, because this is how they perceive the role of a journalist. Very few journalists have a sense of responsibility for their own actions[25]. For many of them, being a journalist, seeking, processing and disseminating information and opinions is their goal itself, the goal that justifies the means with which it is fulfilled. The only form of responsibility for journalists is the responsibility before the general public, who by reaching for a given source of information either grant or refuse their vote of confidence for journalists[26].

According to the Human Rights Defender (Ombudsman) of the Republic of Armenia in 2018, there was a considerable increase in hate speech. What is particularly alarming is the tendency to use humiliating treatment, spread hate and, in individual cases, even to arouse hatred towards particular persons, to divide society into various groups and to set them against one another. One of the causes of this state of affairs is ignorance of the boundary between freedom of expression and

[23] Information obtained on 5 March 2019 during an interview with B. Navasardyan, President of Yerevan Press Club.

[24] Information obtained on 12 March 2019 during an interview with S. Doydoyan, Director of Freedom of Information Center of Armenia.

[25] Information obtained on 1 March 2019 during an interview with A. Ishkhanyan, Chairman of Helsinki Committee of Armenia.

[26] Information from the Annual Report of the Human Rights Defender (Ombudsman) of the Republic of Armenia for 2018, made available with the Office of the Human Rights Defender (Ombudsman) of the Republic of Armenia of 24 June 2019 (in the author's possession).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 18/11/2026 15:56:39



hate speech, which makes it difficult to prevent hate speech[27]. What is particularly alarming is that there are attempts aimed at polarizing society into hostile groups and inciting them towards confrontation. In this context, we should note that the dissemination of information from unverified sources goes against the requirements of "responsible journalism" and "honest commentary". Because of the obligations and responsibilities connected with the use of freedom of expression, the protection offered to journalists in connection with presenting matters concerning the best interest of the public depends on acting in good faith to ensure precise and reliable information in accordance with journalistic ethics[28]. The press is obliged to use reliable sources because, firstly, it is a priority of the press to disseminate true information; secondly, the press is responsible for information from unknown sources, particularly if the presented contents contain hate speech.

## CONCLUSIONS

Constitutional guarantees set standards for freedom of expression and freedom of the press and reflect social expectations concerning the contents provided by them. Although freedom of expression and freedom of the press are obvious, sometimes they have difficulty reaching social consciousness and do not immediately find practical applications. The exercise of freedom of expression and freedom of the press in Armenia makes us aware of the scale of problems and threats connected with that. Some of them, like the journalists' conviction of their exceptional nature and the expectation of special treatment, or the alliance of business and politics, are typical of all democratic countries. Others are determined by the geopolitical situation, which is particularly visible in the case of Armenia, a country with a rich, centuries-old history and culture, with painful experiences, condemned to necessary cooperation with Russia, which pursues its own goals in the Caucasus. Various interest groups competing for power, with not always clear sources of funding which control the media market and the dependence on advertisers predetermines not only the choice of subjects but also the way they are presented. This is all reflected in the quality of press publications and consequently influences the public opinion, influencing the decisions that are made, determining attitudes and behaviour as well as the way the world is perceived.

[27] Information obtained on 22 March 2019 during an interview with M. Khachatryan, Head of International Cooperation Department of Human Rights Defender's Office of the Republic of Armenia.

[28] Judgement of the European Tribunal of Human Rights of 20 May 1999 in the case *Bladet Tromsø and Stensaas vs Norway*, Application No. 21980/93.

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STRESZCZENIE

Swoboda wypowiedzi i wolność prasy stanowią gwarancję i podkreślenie demokratycznego charakteru państwa. Przekazywanie informacji i opinii jest warunkiem demokracji, która z istoty swojej wymaga zagwarantowania obywatelom możliwości uczestnictwa w sprawach publicznych. Możliwość zapoznania się z informacjami i opiniami ma podstawowe znaczenie dla pogłębienia wiedzy, wyostrzenia zmysłu krytycznego, ukształtowania własnych poglądów oraz dokonywania racjonalnych i świadomych wyborów. Aby dostęp do informacji i opinii funkcjonujących w obiegu publicznym był pełny, konieczne jest ich upublicznienie, a najlepiej robią to media i zatrudnieni w nich dziennikarze. Celem opracowania było porównanie konstytucyjnych rozwiązań prawnych w zakresie swobody wypowiedzi i wolności prasy oraz sposobu ich urzeczywistniania w praktyce w Republice Armenii i Rzeczypospolitej Polskiej.

**Słowa kluczowe:** swoboda wypowiedzi; wolność prasy; działalność prasy; zadania dziennikarzy; dostęp do informacji publicznej; współczesne zagrożenia

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