



Final Program Report

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EXECUTIVE SUMMARY

On October 1, 1999, when the ProMedia II program began in Ukraine, journalist Georgi Gongadze had disappeared just days earlier. The economy was still reeling from the effects of the Russian ruble collapse of the year before. President Leonid Kuchma and his allies were exerting intense pressure on the media as the October presidential election neared. It was a bleak time for Ukrainian journalism. But it also was the beginning of a period of great change.

Within weeks, Gongadze's disappearance and the eventual discovery of his headless corpse had, like no other in recent memory, galvanized and unified Ukrainian journalists, especially in Kiev, where the national media are centered. The later revelation that Kuchma, might have ordered the elimination of Gongadze, also helped to increase public support for a free press. Demonstrations in Kiev and other cities drew thousands of protestors and, for a time, Kuchma's hold over the media was weakened, and journalists were emboldened to write about topics and express opinions that had been theretofore been taboo.

But the new freedom that journalists felt was short-lived. As opposition political forces moved to capitalize on and take over the demonstrations, giving them a more overt anti-Kuchma slant and moving the focus away from freedom of press and other human-rights issues, the public's interest waned. As the issue receded from public view, Kuchma – newly elected to a second, five-year presidential term – was able to reassert his grip on power, and tight control over the media was reinstated.

There were, however, some longer lasting effects of those times: Once journalists had gotten more of a taste of press freedom, they hungered to have it again. And journalists and media outlets that had not previously seen the potential power in collective action were suddenly aware that they might be able to better their position by banding together. In the aftermath of that, a group of independent newspapers joined to form the Ukrainian Newspaper Publishers Association.

In addition, the economy slowly recovered, and the advertising market grew in all parts of the country. This was a key factor in allowing regional newspapers to strengthen their financial positions, operate on sound business principles, and resist the enticements and threats to which financially weak newspapers have so often succumbed in Ukraine. Newspapers also improved their business and management skills and practices, which also helped strengthen them financially.

The first real test of these improvements came in early 2002, as Ukraine's politicians and political parties prepared for the March parliamentary elections. And, at least in some parts of the country, coverage of that election campaign was considerably more complete and objective than coverage of previous elections. In addition, Internet-based publications –

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such as the one that Georgi Gongadze himself wrote for – have thrived and multiplied, as public Internet access has increased and as journalists have realized that some of the traditional levers of power used against the media don't work on media outlets that require neither transmitting towers nor printing presses.

The goal of the ProMedia II program was to make more unbiased information available to the people of Ukraine so they would be better equipped to make decisions affecting their lives. To do that, IREX worked – primarily with regional newspapers – to improve journalistic quality of independent newspapers, improve the financial viability of those papers, promote and defend freedom of the press, and encourage development of professional associations.

Though Ukraine is still far from having a truly independent and professional media sector, there has been a significant increase over 1999 in the number of journalists working ethically, professionally and diligently to bring the news to their readers; the number of regional newspapers operating profitably and professionally; and the amount of useful information available to the readers of those newspapers.

Among the key accomplishments of the ProMedia II program in Ukraine:

- **The Ukrainian Newspaper Publishers Association has united more than 50 publishers and 100 newspapers.** The association's members use their collective strength to seek solutions to problems too difficult for individuals to tackle, such as unfair pricing from the post office, restrictive laws, and a lack of professionalism in newspaper business offices. The association was formed with the assistance of IREX ProMedia, which has continued to provide technical, financial, legal and other help to the association since then.
- **Libel and other lawsuits are used as weapons against media with less frequency and less success.** IREX ProMedia's Legal Defense and Education Program (LDEP) has been phenomenally successful in helping newspapers and journalists to defend themselves against what had been a flood of lawsuits. Journalism and legal training taught reporters and editors how to avoid libel in their articles, and vigorous legal defense beat back suits from even politically powerful plaintiffs. The LDEP has provided extensive media-law training to 50 lawyers, 15 of whom now defend newspapers and journalists – and do it well – as a significant part of their day-to-day caseload.
- **Several regional newspapers have strengthened their financial positions so much that they have been able to buy printing presses.** This has been a crucial development, because in many areas of Ukraine the only provider of newspaper printing services has been the government. Private presses remove that lever of power, and also provide a valuable revenue stream to the newspapers that have bought presses, since their competitors now use them instead of government presses. IREX ProMedia provided consulting and other assistance to several newspapers as they explored press purchases.

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- **Newspapers have a “homegrown” textbook on publishing in newly democratic states such as Ukraine.** Frequent IREX ProMedia trainer and consultant Tatiana Repkova, a newspaper editor and publisher from Slovakia, drew extensively upon her experiences and observations in Ukraine in writing *New Times: Making a Professional Newspaper in an Emerging Democracy*. IREX ProMedia published the first Russian-language edition of the book and distributed it to hundreds of newspapers, publishers, journalists, media NGOs and university journalism departments and teachers. The 470-page textbook has gotten universally rave reviews and is much-used in Ukrainian newsrooms.
- **Newspapers that have received the bulk of IREX’s training and consulting attention have recovered from the 1998 financial collapse and are expanding their operations.** Some papers, such as *Molodi Bukovinets* in Chernivtsi, have increased publication from once a week to three or even five issues a week. Others, such as *Kafa* in Feodosia, have expanded their geographic coverage, taking on and succeeding against new competitors.
- **More useful information is available to readers.** Newspapers are listening more to what their readers want to see on their pages, and are providing that information more professionally. The caliber of reporting and editing at many newspapers has improved markedly in recent years, and circulation and readership have increased as a result.
- **Newspapers look much better.** Nearly every newspaper with which IREX works has undergone redesign in the last few years. The papers are cleaner, brighter, easier to navigate and more attractive to look at. There is increased use of informational graphics and news packages, and smarter use of photographs. These newspapers stand out on kiosks, which gives them an immediate advantage over their competitors.

The ProMedia II program was designed to contribute to the achievement of USAID/Kyiv’s development goal (S.O. 2.1): “Increased, better-informed citizen participation in community, political, and economic decision making.” In carrying out this program, IREX worked toward four main intermediate results:

- Publishers and station managers effectively and efficiently manage media enterprises;
- Journalists provide readers, listeners, and viewers with objective, fact-based, and useful information;
- Legal and regulatory frameworks support free speech; and
- Supporting institutions exist and function in the professional interests of media.

Although IREX worked with dozens of newspapers and hundreds of journalists and managers from every oblast of Ukraine during the past four years, about 25 papers formed a core group with whom the ProMedia II program worked most closely. The managers and staff members of those papers were invited repeatedly to participate in IREX training events, and those papers were the ones that most often received consultants or site visits from trainers.



IR 1: EFFECTIVE MANAGEMENT

Much of IREX's training and consulting focused on helping regional newspapers develop and implement strategies for managing their business operations effectively and efficiently, while at the same time keeping a close eye on the quality and usefulness of the news being presented to readers.

IREX used several techniques to increase the knowledge and experience of newspaper managers, including short-term workshops on topics such as advertising and market research, longer-term programs such as the 15-day School for Newspaper Managers, study tours or internships to more advanced neighboring countries to see first-hand their practices in advertising and other fields, and site visits to Ukrainian newspapers by consultants. In the final year of the ProMedia II program, IREX also awarded several grants designed to help newspapers improve their management practices or to try out new ideas or techniques in areas such as newspaper distribution.

The keystone management training event was IREX's School for Newspaper Managers, which was conducted six times during the ProMedia II program. The managers' school is a course, held over five three-day weekends, in which newspaper publishers, chief editors, and managers of advertising and other departments learn specific techniques they can use to improve their newspapers. Those techniques and skills are in areas such as personnel management, time management, communications, planning and administration, as well as covering broader themes such as advertising, audience research, newspaper distribution and marketing. Participants evaluated their newspapers internal strengths and weaknesses, and external opportunities and threats – basic SWOT analysis – in order to determine what steps they needed to take to protect their current market position and then to improve it. The lead trainer each time the course was taught was Slovak publisher Tatiana Repkova, who used her own book, *New Times*, as the core text of the course, both before and after its official publication by the World Association of Newspapers (English edition) and IREX (Russian edition). In a written evaluation of the 2003 group of participants, Repkova said that their starting level of expertise was considerably higher than that of previous groups. She attributed that, in large part, to an institutionalized culture of learning and change at many of their newspapers – those journalists who attend workshops and other training events return to work, implement changes based on what they have learned, and also pass along the new ideas and techniques to others.

One 1999 participant said: "Participation in the management school caused me to reconsider the situation in our newspaper and formed the bases for favorable and effective changes.... I do not exaggerate. Now I pay attention to every aspects of newspaper management. I decided to start with an understanding of the newspaper's mission, its competition, more precise positioning of its audience, drastic improvements in the quality of journalistic materials, and changing our methods of working with advertisers. (Liliya Molodetskaya, then chief editor of *Popularnye Vedemosti*, Pavlograd)

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In addition to Repkova, IREX used other media-business professionals from Ukraine and other eastern and central European countries. Those contacts were helpful not only for workshops in Ukraine, but also for arranging visits of individuals or groups of managers to newspapers in those other countries. During the ProMedia II program, IREX sent several groups and individuals on internships or study tours to Poland, Latvia, Slovakia, Hungary and Lithuania. Each trip had a specific focus, such as advertising, marketing, delivery of papers to subscribers, or newsroom management. IREX received excellent cooperation, and the visitors received warm welcomes, from numerous newspapers in those countries. Some of those papers had themselves benefited from similar training only a few years before, and were delighted at the chance to help others in their turn. In addition to these trips to other countries, IREX also arranged or facilitated numerous visits between Ukrainian newspapers. For example, several publishers interested in buying printing presses visited Zaporizhiye, where the newspaper *Mig* had recently bought and begun operating a Swedish newspaper press. The officials at *Mig* were happy to answer questions and offer suggestions to the visitors (none of whom would be seen as competitors to the Zaporizhiye paper or press).

During the four years of ProMedia II, IREX's training events in the field of newspaper business and management included seven schools for newspaper managers, 37 workshops, six study tours, three foreign internships, 18 on-site consultations and eight grants. *The goal of all the training programs has been to strengthen the financial viability of the newspapers, and to do it in such a way that the papers can remain independent of undue political or government influence. That has involved not only working on purely commercial techniques, such as increasing advertising or improving distribution, but also in improving the quality of the newspapers to make them more attractive to readers.* One chief editor said: "You have provided very specific assistance in the area of newspaper management. Our newspaper has changed its design, content and form of presentation. I personally learned the principle of making a newspaper not for my own pleasure, but to meet the needs of the reader.... All the new ideas we adopted for our newspaper we received through IREX ProMedia." (Hryhory Burbeza, *Ternopil'ska Gazeta*)

And though the ProMedia program targeted a small group of newspapers for assistance, but the ripple effect has been noticeable. The increased level of expertise among the newspaper assisted by IREX over the years has given them a competitive advantage in their local markets. In many cases, they have grown much more rapidly than their competitors. And in many cases those competitors have aped improvements at the IREX-assisted papers. The end result has been that, even at newspapers to which IREX has provided no assistance at all, improvements have been seen and readers have benefited, simply because those papers have tried to remain competitive with the papers that IREX has helped.

Repkova's management textbook and other instructional materials published or distributed by IREX ProMedia can be found in desks and shelves in newsrooms across Ukraine. Those works included handbooks on advertising, newsroom management, running a profitable newspaper, and market research.

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IR 2: JOURNALISTIC QUALITY

For the first three years of the ProMedia II program, IREX operated information and press centers (IPCs) in Kyiv and Simferopol. Those centers provided journalists and students with free Internet access, as well as with access to electronic and printed archives of Ukrainian news stories going back a full decade. The centers also included an ever-growing number of journalism texts and other books, as well as books useful to journalists researching articles. Over time, however, IREX determined that the need for at least some of those services had diminished and they were no longer worth the cost. For example, when IREX began operating the press centers in 1996 and 1997, few newspapers, let alone individual journalists, had regular Internet access or e-mail, and access could be prohibitively expensive. By 2002, virtually all newspapers had e-mail access and, at a minimum, dial-up Internet access. And newspapers and news services had begun to put their own archives on-line, meaning that the press center's databases were being consulted less frequently. At the end of September 2002, the original end date of ProMedia II, IREX spun off the press centers as Ukrainian NGOs.

The Simferopol IPC has thrived since then, receiving grants from IREX, the U.S. Embassy, the Eurasia Foundation and the International Renaissance Foundation to support operating costs as well as programming initiatives. (All this despite the loss of long-time IPC director Oleg Khomenok, who moved to Kiev and now works as a journalism trainer for IREX.) The Kiev IPC, unfortunately, has not fared nearly so well. It has been unsuccessful in getting grants, and is moribund. One problem for the Kyiv center may well be that, in a city as large as the capital, some of the services traditionally offered by the center are not needed, whereas in a smaller city such as Simferopol those needs still exist. As a result, the Kiev center has thus far been unsuccessful in carving out a niche for itself in the field of media-related, Kiev-based NGOs. Nonetheless, during the three years they operated as part of the ProMedia II program, the IPCs did contribute significantly to the amount of quality information available to journalists and, through them, to the general citizenry of Ukraine.

During election years, IREX focused much of its training on improving coverage of the candidates and issues, in order to help journalists provide useful information to voters as they pondered their choices at the polls. IREX used a civic-journalism approach to election-campaign coverage – that is, an approach that focuses on the needs of the community and citizens and asks candidates to respond to them, rather than letting candidates define the terms of debate in a campaign. In addition, IREX worked with various media-monitoring organizations, including the European Institute for the Media and Spilny Prostir, to encourage debate within the journalistic community about the adequacy and the inadequacies of election coverage. That was done by presenting results of quantitative and qualitative analysis of election-campaign coverage at roundtable discussions in different cities. Before the 2002 parliamentary elections, such roundtable discussions were held with journalists in 16 different oblast centers.

In the final year of the program, IREX awarded four grants to regional newspapers to jumpstart their coverage of the 2004 presidential campaign. They used the money to

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conduct surveys and focus groups in their communities to determine what issues the voters wanted the presidential candidates to concentrate on during the campaign. Some papers also set up hotlines so readers could voice their opinions and suggest issues for coverage and for candidate discussion. Several of the newspapers also presented special pages or sections with the results of their surveys and research, and promised to continue publishing such pages during the campaign, even without grant assistance.

IREX, along with the Ukrainian Newspaper Publishers Association, also oversaw production of two election-related newspaper supplements. During the 2002 parliamentary election campaign, 28 newspapers in 22 cities distributed, as part of their regular editions, an 8-page newspaper insert, "Elections 2002 Voters' Guide," with a focus on accurate, fair and complete information that would be useful to readers. Although IREX ProMedia oversaw and funded the project, all reporting and editing was done by Ukrainian journalists. The project was repeated in September 2003, with a section taking an early look at issues that citizens thought should be discussed as part of the 2004 presidential campaign. More than 750,000 copies of that eight-page supplement were distributed by 46 newspapers in 33 towns and cities.

The ProMedia II program offered training opportunities to hundreds of journalists – from new reporters to seasoned editors – during its four years of existence. Those training events included seven editions of a 27-day School for Young Journalists; two editions of a 9-day School for Editors; more than 70 short workshops on topics ranging from coverage of religion to business coverage to newspaper design to working successfully with government press officers; eight journalism-related study tours to other countries; more than 50 internships at foreign newspapers; and six on-site consultations.

The journalism training did not focus solely on techniques. IREX also provided reporters with information about specific topics, so that the journalists would have a better understanding of and be able to write about those topics more completely. These topics included HIV/AIDS, human trafficking, domestic abuse, elections, corruption, Ukraine's European integration, interdenominational religious strife in Ukraine, and education.

Because it is common for Ukrainian journalists to change jobs fairly frequently, journalism training, moreso than business/management training, was focused on individuals rather than on the core group of papers that IREX usually worked with. Nonetheless, people working for those newspapers did receive the bulk of the IREX's training during ProMedia II, and periodic review of those newspapers over the four years of the program has shown that the newspapers have improved. That improvement is apparent in several ways:

- The selection of articles being printed is more closely related to the readership of the newspaper. Thus, instead of *Molodi Bukovynets* in Chernivtsiy running articles about events in Kiev, the paper is focusing more on events occurring in Chernivtsiy that have a more direct bearing on the lives of readers.

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- Individual stories are based more on facts, rather than being primarily a vehicle for the journalist to express his or her opinion.
- Individual stories call on more than one source of information, and not necessarily sources holding the same viewpoint, so that readers are more broadly informed about events from various points of view.
- The design of newspapers and sections of newspapers has improved dramatically. In addition to making the papers more attractive, this also means that information is presented in a more logical and easy-to-read form.
- Newspapers are working hard to inform their readers about important events and issues. While, unfortunately, far too many newspapers and journalists in Ukraine continue to see news articles as something to be sold or traded, or are afraid of running afoul of powerful political or business interests, more papers are covering issues as fully and fairly as they can. This was quite apparent during the 2002 parliamentary election campaigns, in which regional newspaper coverage was markedly improved over past campaigns.
- Newspapers, having learned from the election supplement that IREX sponsored in 2002, have begun publishing their own special sections, devoted to topics of interest to their readers (and advertisers).

IR 3: LEGAL DEFENSE AND EDUCATION

The Legal Defense and Education Program (LDEP) became one of the components of the ProMedia program most highly valued not only by media professionals, but by lawyers, judges, lawmakers and other government officials involved in media issues. From one full time Ukrainian staff lawyer in 1999, the LDEP expanded to employ three full-time Ukrainian lawyers in addition to the American lawyer who headed the program. The program had several thrusts: improving the legal awareness and knowledge of journalists; providing media-law training for lawyers and judges; maintaining a legal-defense hotline to answer queries from journalists or media outlets; providing legal defense in certain cases for journalists or media outlets; reforming judicial practice in defamation and invasion of privacy cases to better protect freedom of the press; helping journalists and media outlets to assert their rights; and providing prepublication review of articles to forestall legal trouble.

Over 1000 journalists and editors attended the LDEP's two-day "media law for journalists" seminars held in each of Ukraine's 25 oblasts and LDEP lawyers also provided legal training for media professionals who attended ProMedia II training seminars. The LDEP also published a bi-monthly Legislative Bulletin distributed to media outlets, NGOs, journalists, jurists and lawmakers; a very popular handbook: "The Legal Aspects of Ukrainian Journalism"; volumes of media legislation as well as newspaper/internet articles on media law issues. The impact of those education activities became evident during the LDEP's hiatus, from October 2002 to February 2003, when the new parliament spearheaded legislative reform of defamation law. In contrast to 1998, 1999 and even 2000; when nearly all legislative reform efforts betrayed a complete ignorance of what defamation law is supposed to accomplish in a democratic society; the 2002-2003 amendments were informed and reasonably well-thought out. Since the LDEP was the only project in Ukraine working

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on defamation in the preceding years, we believe that the legislative reforms were a direct result of our efforts – even if the LDEP did not exist during that interim period.

Receiving on average 25 hotline calls a week, the LDEP staff lawyers provided concrete consultations in 492 cases – mostly defamation and invasion of privacy – in the course of the program, making the LDEP the most experienced media defense organization in Ukraine. Of the 492 cases, 251 were approved by the LDEP independent legal defense council for the payment of legal fees to LDEP-trained lawyers. This freed the LDEP staff from very detailed involvement but did require their supervision and frequent advice. And with great success.

When the LDEP was first conceived in the autumn of 1998, Ukrainian media lost nearly every libel case brought against them. Moral damage (pain and suffering) awards ran into millions of hryvnia (hundreds of thousands of dollars), forcing some newspapers to close. In spring 2000, the LDEP commissioned a survey of 300 Ukrainian editors and publishers to determine what effect, if any, the large number of defamation cases filed by public officials and public figures in Ukraine was having on newspapers' reporting. The results showed that most newspapers were censoring themselves to some extent for fear of lawsuits or other problems, such as tax inspections. The LDEP staff publicized these results in the media and used them as the basis for a roundtable discussion with journalists about their rights and responsibilities.

At the conclusion of ProMedia II, media outlets represented by LDEP-trained lawyers won (by not losing) around two-thirds of the cases brought against them – either at trial or on appeal. Those successes – in which the court either entered a judgment for the defendant, the parties settled, or the plaintiff withdrew the complaint – were not only the result of the lawyer's using the LDEP-formulated defamation defense strategy, though that was a significant factor. The LDEP's legal training of journalists and editors, plus services such as prepublication review, improved the quality of the articles that were the subject of lawsuits, easing their defense. And the LDEP's training of judges, and especially the Supreme Court, increased the number of decisions based on European standards of free speech.

Even in the cases that the media lost, nearly all were tolerable losses that the media themselves considered successes and didn't bother appealing, even when the LDEP counseled appeal because of the legal principles at stake. In lawsuits demanding hundreds of thousands and even millions of hryvnia in moral damages, judges began awarding damages in amounts closer to 1000 hryvnia (less than \$200). And even when the awards numbered in the thousands, they were usually reduced or reversed on appeal. For example, in a case arising from the 2002 elections, a trial court in Dnipropetrovsk awarded 1.8 million hryvnia. But that judgment was reversed on appeal. At first, such media-friendly decisions were limited to defendants represented by LDEP-trained lawyers.

About 50 lawyers have gone through LDEP training. All left with improved knowledge and concrete advice about media defense work. But the real prize was a cadre of about 15 lawyers nationwide that are reliable, professional and successful. The sole problem was

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finding such lawyers in the eastern oblasts – largely because we demanded high standards. As a result, cases in the east were usually represented by lawyers from other regions. Eight lawyers were also trained to be trainers, and four of them proved suitable for taking part in regional training seminars for journalists. The LDEP also assisted in the creation of a media lawyers association, though it was moribund at the time the program ended.

But as the LDEP's defamation reform efforts succeeded, low damage awards became more common in general. The sole civil law exception is a 50,000 hryvnia damage award in a libel case brought by a judge. This survived Supreme Court scrutiny but the newspaper had a weak case. Another exception was a criminal libel case, but the defendant was prickly, overly political and often disregarded legal advice. But even in that case, the defendant was never actually punished.

Such progress happened thanks in large part to the LDEP's efforts to introduce a "public figure doctrine" (because so many plaintiffs are government officials and government branches) as well as other democratic standards into Ukrainian defamation law practice. In fact, a "public figure doctrine" existed in Ukrainian legislation but was virtually unknown among journalists, lawyers and judges. Not only did the LDEP "discover" this little known provision, but it was instrumental in bringing it to journalists and jurists attention and getting it applied by the courts. Working closely with the Supreme Court, the LDEP organized a judicial conference on the subject and then sent the two-volumes of the proceedings to every single court in the country. It was the first time that the proceedings of any Ukrainian legal conference had been so widely distributed. After submitting an unprecedented *amicus* brief together with equally unprecedented oral arguments to the Supreme Court, the result was a Resolution of the Plenum of the Supreme Court of Ukraine directing lower courts to apply European standards and the public figure doctrine (and defining that doctrine almost exactly the way it is defined in U.S. courts) in defamation cases. To a large extent, this Resolution provided the blueprint for the legislative amendments reforming defamation law in 2003.

To bolster their appreciation of European standards, LDEP sent ten judges to Strasbourg to the European Court of Human Rights and also held judicial training seminars in Kiev, Donetsk, Dnipropetrovsk and a nationwide legal conference in Yalta. Six judges were also trained to be trainers and four of them appeared suitable as trainers in U-Media's more ambitious judicial training program.

IREX's work to develop a cordial relationship with the Ukrainian Supreme Court has paid off, as the court has been very willing to listen to the LDEP lawyers and to cooperate with IREX training initiatives. In a letter to the LDEP, Deputy Chief Justice Petro Shevchuk wrote: "The Supreme Court expresses its gratitude for the practical assistance your program has given to the Ukrainian judiciary to raise of the qualifications of judges in European court practices and applying the European convention to Ukraine."

At the conclusion of the program, Ukrainian defamation law had become what it should be in a democratic society – protection from press abuses, rather than punishment for journalists

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doing their job. That doesn't mean that the number of lawsuits has lessened. It hasn't. And sometimes those lawsuits are fully deserved. But the media now win – when they deserve to (and when they have decent legal representation).

The editor of one paper in Odessa credited the LDEP's assistance with saving his newspaper. "IREX ProMedia's legal and informational assistance did not allow the head of a police organization, renowned in Ukraine for his intolerance of criticism, to destroy the newspaper with a long court case. It is our deep conviction that your program's help made a significant contribution to the defense of free speech and journalists' rights in Odessa and in Ukraine," said Alexandr Ostashko, editor of *Robota i Otdykh*.

The LDEP also encouraged journalists to assert their rights, either with freedom of information requests to get information, or with lawsuits to defend their professional rights. In 2000, the LDEP helped a number of journalists obtain Central Election Commission documents about a putative "people's referendum" to increase presidential powers. They used those documents for articles that cast doubt on the referendum's legitimacy. The LDEP also worked closely with Myroslava Gongadze -- widow of Georgi Gongadze, the journalist who was murdered in 2000 – to protect her rights as a crime victim. During that same period, many opposition newspapers had difficulty getting their newspapers printed by printers with whom they had contracts, so the LDEP helped some of them to successfully sue for breach of contract. The LDEP also hired a law professor to write the Ombudsman for Human Rights' arguments for a Constitutional Court challenge to the government's use of "top secret" stamps, which the Kharkiv Human Rights group is trying to obtain to write articles for their publication.

The LDEP worked to improve the coverage of election campaigns and election, both by providing legal backup during election periods and by analyzing media-related provisions in election laws and regulations. During the 1999 presidential elections, the LDEP wrote a widely disseminated article analyzing what the Central Election Commission's (CEC) regulation of election-related media activities would mean in practice. This article even won a prize from a legal newspaper for "reporting on a current legal issue". For the 2002 parliamentary elections, the LDEP published a very successful and widely appreciated pamphlet on legal "dos and don'ts" during the election period, sample contracts for election advertising, Q&As. The pamphlet was even cited approvingly by the CEC and we believe that it helped to prevent many lawsuits against the media since the number of lawsuits that came to the LDEP's attention did not appreciably rise during the election period. Of those cases that did happen, some judges told the LDEP that they used the pamphlet to resolve disputes.

Often with the help of Covington & Burling, the LDEP analyzed legislative initiatives for their impact on press freedom, writing articles to bring its position to a wide audience. The LDEP opposed several efforts to place ceilings on moral damage claims, on the grounds that they would lead to greater scrutiny of media finances. The LDEP's arguments, published in an influential newspaper, were instrumental in getting criminal libel and insult dropped from the new Criminal Code, and from getting new crimes of insulting the president and the flag from

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being introduced. LDEP lawyers also published analytical (and usually critical) articles about draft laws about political advertising, public morals, prior restraints as well as several misguided efforts to help the press (which would, in fact, have hurt it). The LDEP was also the first to appreciate the dangers that the new Civil Code, due to take effect January 1, 2004, poses to freedom of the press.

IR 4: ASSOCIATION DEVELOPMENT

The primary goal of the ProMedia II program in the area of association development and NGO support was creation and development of an association of publishers. Throughout the initial ProMedia program (1996-99), IREX worked with newspaper publishers and editors to encourage formation of a publishers' or newspapers' association, but to no avail. The reasons were manifold, but one of the main ones was that publishers saw little value in working alongside their competitors, even if such cooperation meant that both would benefit equally.

In spring 2001, the newspaper *Mig* in Zaporizhiye had just bought a new printing press, and wanted to have a party to celebrate. Although IREX declined *Mig's* suggestion that the ProMedia program fund the party, IREX did agree to hold a seminar for publishers in Zaporizhiye in tandem with the celebration. The seminar had two purposes: to give publishers information on how they might be able to acquire their own printing presses, and to get publishers talking with each other about mutual concerns and how joint action might resolve them. Officers of publishers' associations from Latvia and Hungary were among the speakers. By the time the seminar ended, more than a dozen publishers had signed an agreement in principle to form a Ukrainian publishers association.

The new group held its first meetings in Kiev and, with administrative and consulting support from IREX, created a charter, structure and board of directors. The UNPA's first office was in the IREX ProMedia office, and ProMedia staff member Gennadi Potchtar served as the association's interim director until the UNPA hired its own staff. IREX sent the newly elected board of the UNPA to visit newspaper associations in Slovakia and the Czech Republic, and brought officers of other associations in the region to visit the UNPA in Kiev as consultants.

Within 18 months, the association represented nearly 100 publications and had 50 publishers as dues-paying members. The UNPA was invited to join the World Association of Newspapers, which accepts only one member association from any single country. And the UNPA had mapped out a list of priorities and had begun to take collective action on behalf of its members.

Its first campaign was to convince the post office to end a two-tiered system that gave state-owned and favored private newspapers lower prices for delivery. By lobbying and negotiating with the post office, the government and the parliament, the UNPA got the rates changed. It was a short-lived victory, as state-owned and politically connected newspapers, along with (inexplicably) the Union of Journalists, began a successful counterattack. But the

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whole incident did show that the association could work on behalf of its members and get solutions to problems that individual publishers could never hope to resolve on their own.

IREX has continued to support the UNPA. The association received a grant to furnish and equip its first office, and another grant to help rent and renovate a training center adjacent to the office. IREX provided a consultant who worked with the UNPA for several weeks during summer 2003, helping the association with its long-range planning, as well as helping them through issues of governance, fundraising and staff management.

IREX invited the UNPA to join several activities, including publication of the newspaper supplements mentioned earlier, and the recognition of best practices in various areas of newspapering in Ukraine. IREX used that event to compile and publish – with the UNPA – booklets detailing those best practices so that other newspapers can learn from them. And the UNPA has turned the event into an annual affair and expanded it to include additional categories. It also is disseminating information about the winners through its member newsletter.

IREX also worked with the Kyiv and Simferopol IPCs as the ProMedia II program neared an end, so that they could continue to function as Ukrainian nongovernmental organizations. As noted above, that transition has been successful for the Crimean center, but not for the Kiev one.

Throughout the ProMedia II program, IREX worked with a variety of Ukrainian media-support organizations, helping them to build visibility and credibility, as well as to participate in or offer activities and programs that they would have been unable to mount on their own.

ADMINISTRATIVE

Throughout its implementation, the ProMedia II program in Ukraine was led by Resident Advisor Tim O'Connor, Local Media Advisor Gennadi Potchtar, and Media Law Expert Mary Mycio. IREX/DC support of the program was managed primarily by Media Development Division Deputy Director Linda Trail, under the supervision of Mark Whitehouse. At various points of the ProMedia II program in Ukraine, it was also overseen by Program Officer Paul Moran, Senior Program Officer Tadd Eakin, and Media Development Director Nancy Hedin.

The cooperative agreement between IREX and USAID/Kyiv was originally scheduled to conclude on September 30, 2002. However, after a brief suspension of the bulk of activities from October – December 2002 (due to the expiration of the CA), USAID/Kyiv and IREX concluded negotiations to extend the life of the project until September 30, 2003.

CONCLUSIONS AND LESSONS LEARNED

No single assistance program can take credit – or blame – for more than a small part of the changing fortunes of media in a country as large and diverse as Ukraine, particularly in times of such rapid change. Too many outside factors influence the media and their

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development. Had it not been for the collapse of the Russian ruble in 1998, the Ukrainian advertising and media markets would most likely have had quite different trajectories over the past few years. Had the political opposition been stronger in the aftermath of the Gongadze killing and protests, the entire outlook for media in Ukraine might well be completely different today.

What IREX has done through the ProMedia II program is to lay the groundwork so that when opportunities for change arise, the newspapers and journalists are ready to take advantage of them. And sometimes, by laying that groundwork and preparing the journalists for change, the journalists start to push for that change and create the opportunities themselves.

Newspapers in general, and especially those with which IREX worked closely during the four years of the ProMedia II program, are in much better shape, financially and journalistically, than they were at the start of the program. Journalists are better trained, and are sharing that new knowledge with colleagues. A culture of professionalism has been established in many newspaper offices, and that culture calls for improvement and excellence, even once programs such as ProMedia have disappeared. But while such programs continue, they must change as well. During the ProMedia II program, IREX ended or dramatically decreased most of its entry-level training, and instead focused on more advanced skills. It was IREX's experience that the more senior journalists and managers were teaching the basic skills to their newer colleagues as part of day-to-day, on-the-job training. Thus, IREX was able to focus more on higher skills, with the hope and expectation that the same process would someday make those workshops equally unnecessary.

Ukraine is poor, but not desperately so. The economy is growing, and the advertising market is growing more quickly than the economy as a whole. Thus, newspapers generally do not need financial handouts as much as they need the technical expertise that will let them advance. Newspapers welcome grants, of course, but it has been IREX's experience that those newspapers that truly want to succeed will build upon their successes until they can get to the level they seek – without grants. Five years ago, virtually no independent newspapers had their own printing presses. Today, there are more than half-a-dozen. None were purchased with grants (though one or two companies did receive – and are repaying – loans from an international donor). Similarly, newsrooms across the country are equipped with computers, digital cameras, Internet access, web servers and other equipment that they find necessary. They have done this without grants, but instead by investing and reinvesting in themselves. They have and follow business plans, and are confident that their investments will pay off. And they're right.

Cooperation is essential. Whether that is through a formal organization such as the Ukrainian Newspaper Publishers Association or informally, through contacts made with colleagues from other cities at a conference or workshop, Ukraine's newspapers and journalists have much to learn from each other, and are able to support each other to the benefit of all. Such cooperation – both the formal and the informal – should be continued and nurtured.

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It will be many years before the media in Ukraine reach and can maintain Western standards of professionalism. They are still susceptible to financial and especially to political pressure and the misuse of government resources against them. Legal assistance will continue to be crucial. Just as importantly, western governments must continue to voice their support for independent media and their abhorrence of government interference with such basic human rights as freedom of speech and freedom of association.

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