

**MEDIA LAW INSTITUTE  
ANNUAL REPORT  
2013**

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### **4. Institutional Development of the Organization**

Civil society organization “Media Law Institute” (MLI) is an unbiased think tank that brings together lawyers and experts specializing in media law and human rights.

Our mission is contributing to the development of the society of active citizens through support to civic initiatives; impartial and professional media expertise; elaboration and implementation of high quality information law; education; legal protection of journalists and citizens` rights; promoting freedom of speech and fundamental human rights.

Among key beneficiaries of the Institute`s support are: journalists and other media representatives soliciting for its legal advice or defense in courts; media lawyers, students and journalists competing to get selected for MLI`s targeted trainings, distant-learning courses on Media Law or for the annual International Summer School; CSOs` coalitions asking for advocacy support (e.g. StopCensorship!) and mitigation of legal risks for civic campaigns (e.g. CHESNO). MLI lawyers can be found among the members of civic expert-level councils of 5 public authorities concerned: the Ombudsman`s Office, the State Committee of TV and Radio Broadcasting, the National Council of TV and Radio, the Parliamentary Committee of Freedom of Speech and Information, and the Public Council of the State Inspection on Consumers` Rights Protection.

*The Media Law Institute team expresses its sincere gratitude to all partners and donor organizations that share our mission and provide necessary support in our activity.*



*Media Law Institute team in 2013*

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**2. KEY HIGHLIGHTS OF 2013**

In 2013, the Media Law Institute continued enjoying solid demand for its activity on the part of beneficiaries thanks to its good track-record since 2005, recognized expert abilities, and flexibility in terms of work formats.

This demand seems to be equally induced by the relevant environment affecting our last-year activity. Among important challenges for the country's media landscape in 2013 were attacks and pressure on journalists and interference in the editorial policy of the media and non-transparent changes in media ownership, prevalence of political and commercial pre-paid materials, and a phenomenon of self-censorship among mass media. However, it appears a positive factor that Ukrainian lawyers, journalists and social activists approached MLI with a need to improve their skills and level of legal literacy, especially for the preparation of high-quality materials or avoiding legal risks in their work.

In the realm of access to information, cases of illegal denial of access, providing incomplete data to journalists or social activists appeared quite regular last year. Ukrainian officials used contradictions in legislative provisions on access to public information and protection of personal data. Whereas the bill #0947 was developed to resolve these legal controversies, the Parliament of Ukraine seems deliberately delaying its adoption.

Importantly, with the mass protests that unfolded in Ukraine since late-November`13 Euromaidan, there was intensification of existing public and journalistic initiatives and the emergence of new ones, with parallel launch of online public broadcasters. These processes were accompanied by brutal physical attacks on journalists, unlawful arrests, pressure on them by the law enforcement agencies for a purpose of obtaining information, seizure of servers of the opposition media, censorship on major TV channels and large waves of Ukrainian journalists` dismissals due to their disagreement with editorial policy of the media.

In this light, MLI last-year activities framed around:

- media law development and advocacy;
- ensuring judicial protection of information rights;
- methodological and legal support to the CHESNO civic movement;
- Smoke-Free Kyiv work;
- support to civic initiatives and public councils;
- maintaining the network of defenders of the right to access information;
- providing legal consultations; as well as
- offering education and legal expertise.

Detailed description of our activities by these working tracks can be found in the next part of this report.

In sum, we are pleased to share key highlights of the Media Law Institute work in 2013:

- thanks to MLI`s efforts in law development and advocacy efforts, improvement of elections legislation was achieved in 2013, a concept of the draft law "On Digital Switch-Over" was preliminary approved and the progressive scale of the court fee re-established;
- MLI initiated an action against the Parliament`s Apparatus and succeeded to obtain public information at stake, thereby increasing transparency and accountability of the public officials;
- within its strategic litigation, 18 court proceedings were initiated or supported by the Institute in 2013 allowing to ensure proper enforcement of the Ukrainian information legislation and to shape litigation practice against the public authorities;
- due to its methodological and legal support to the CHESNO Civic Movement in the post-elections period, MLI witnessed disclosure of highly important information by MPs at the official parliamentary website/MPs` websites or via e-mail, and their commitment to ensure transparency and accountability in work, declared namely at the MLI-organized public Forum in March;
- within its further support to other civic initiatives, MLI team contributed to the efficient operation of the NGOs` coalition *Tobacco Free Ukraine*, set liaisons with the state authority concerned, promoted due implementation of legislation that bans tobacco advertising (as interdiction of direct advertising of tobacco products appeared 100% implemented), and built up a network of volunteers sharing aims of this coalition;

- MLI lawyers underpinned efforts of the “Stop Censorship!”, the New Citizen campaign and the Open Civic Platform thereby boosting public awareness on topical challenges, such as due investigation of attacks on journalists of the 5-th channel; whereas MLI lawyers` membership in 4 civic councils at the Ukrainian public bodies we influenced policy-making in the media sphere;
- MLI further developed its nationwide Network of Defenders of the Right to Information by encouraging constant knowledge sharing and holding a consequent all-Ukrainian forum of defenders;
- last year more than 170 consultations were accorded by MLI experts, thereby ensuring legal protection and raising legal literacy of journalists and civic activists, along with coordination of NGOs` efforts during the Euromaidan mass protests in Ukraine;
- we equally experienced solid demand for the targeted educational services – general and specialized distant-learning courses, trainings, international summer school, – as well as for MLI expert comments to media, so over 90 information materials, 6 analytic papers and over 20 expert comments on a certain topic of media law were released by the Institute in 2013;
- MLI succeeded to bring the issue of media ownership transparency on the agenda of professional international community by organizing a side event within the OSCE annual Human Dimension Implementation Meeting 2013, on 25 September in Warsaw;
- finally, the Organization improved its institutional capacity by introducing new policies and strategies, and undergone tangible changes in its governing structure, as described below.

### **3. ACHIEVEMENTS BY MLI ACTIVITY AREAS**

### **3.1. Media Law Development and Advocacy**

Seeking to support and protect the enabling environment for media, MLI team has actively engaged into media and information law development in 2013. The advocacy efforts included MLI public statements on regulatory changes aimed to propell major legislative initiatives and raise public awareness on, namely on the public service broadcasting, denationalization of press, digital switchover, and court fee for moral damage.

- **Media and Elections**

On 20 December 2013, the law No 709-VII "On Amendments to Several Legislative Acts on Improvement of Elections Legislation" was signed by the President of Ukraine including MLI proposals. As it governs media coverage during elections, our lawyers previously elaborated some amendments to, such as an obligation to print out a special edition of the Parliament's newspaper with pre-election programs of all candidates allowing voters to compare them. As also proposed, the limit for publication of opinion polls was reduced from 10 to 2 days before the voting day, and the period during which it is prohibited to comment or analyze election programs of the candidate(s) shrunk from 20 to 10 minutes before/after the electoral propaganda was broadcasted at a particular channel.

- **Public Service Broadcasting**

MLI further advocated for adoption of the draft law "On the Public Service Broadcasting System" No [1076](#) (PSB), already on the Ukrainian Parliament agenda and adopted in the 1<sup>st</sup> reading on 3 July 2013. MLI Director Taras Shevchenko provided consultations to the Parliament's Committee of the Freedom of Speech and Information, while draft was under preparation for the second reading. The main aspects addressed lately were public council, financing system and transparency of PSB. It was one of the bills, which the Parliament needed to vote on as a part of preparation for Association Agreement (AA) signing with the EU, the draft initiated by the Cabinet of Ministries in 2012 and prepared by a working group, involving Taras Shevchenko.

- **Denationalization of State and Municipal Press**

As members of a working group of the Committee of the Freedom of Speech and Information, MLI experts developed a number of expert opinions and amendments to the Draft Law «On Reforming the State and Municipal Print Media» No [2600](#) in March-September 2013. As a joint draft of previously developed three different documents, this bill was registered in the Parliament in March 2013 and adopted in the first reading on 19 September 2013. It was also a high-priority draft for the AA signing with the EU, but once the President of Ukraine suspended preparation for it, the draft on denationalization of State and Municipal Press was put off to the Greek calends.

- **Switchover to Digital Broadcasting**

The process of TV digitalization in Ukraine, as the practice shows, is complex and marked with non-transparent repartition of the TV market with suppression of independent actors. Last year a parliamentary working group (WG) on digital TV was pro-active, involving also MLI lawyer Igor Rozkladaj. As a result of this WG efforts, a concept of the draft law "On Digital Switch-Over" has been prepared and adopted by the parliamentary Committee on November 20, 2013. Body of the draft law is to be written in spring 2014.

- **Law of Ukraine "On the Court Fee"**

Given its long-term campaign, MLI succeeded to witness recently adoption of the progressive scale of the court fee for cases involving moral damage, as for defamation ones. In 2003, this scale was established upon initiative of MLI Director Taras Shevchenko as a preventing mechanism for the court cases with significant amounts of the claimed moral damages, as ones claimed by public officials from journalists or civic activists.

It existed until 2011, therefore, MLI sought to re-establish it in the new Law "On Court Fee" – by providing its expert comments, statements and developed a draft that was adopted on 19 September 2013. So, the court fee for a non-pecuniary damage claim up to 5 minimum wages (5735 UAH) was set at 1.5% of the claim value, but no less than 0.2 min wages (about 300 UAH). If the claimant will require from 5 to 50 min wages (up to 57 350 UAH) - the fee increases to 5% of the claim value, but not less than 0.3 min wages (344 UAH). Finally, particularly sensitive victims claiming more than 50 min wages – will have to pay 10% of the suit value.

- **Draft Law on "Combating Extremism"**

To deter adoption of the law on combating extremism, oppressive for the media environment, MLI lawyers have analyzed it. Registered in December 2013, this Russian-style bill contained substantial risks for the freedom of speech and freedom of media. One of the most dangerous provision of the draft – rights of the Prosecutor's office to freeze any legal entity, incl. media outlet or NGO for extremism, until the court hearing is finished. Therefore, our written expert opinion on the bill was widely shared among stakeholders and published on MLI's web-site, Telekritika and others attracting public attention thereto. Later on, it was cancelled by the Parliament.

### **3.2. Ensuring Judicial Protection of Information Rights**

Throughout 2013, the Media Law Institute has initiated as well as supported a number of cases in courts. As a result, our team promoted proper enforcement of the Ukrainian information legislation, esp. of the Law of Ukraine "On Access to Public Information", due protection of journalists' rights to access information, and equally shaping litigation practice against the public authorities.

These activities included litigation claims by MLI against central governmental authorities, coordination and support of the Fund to protect the right of access to information and the Supervisory Board to select the cases, public information and advocacy campaigns.

Seeking to increase transparency of the Parliament within activity of the CHESNO civic movement, MLI initiated an action against its Apparatus and succeeded. Having analyzed that the parliamentary committees failed to comply with the Law "On Access to Public Information", namely to publish the minutes of its meetings regularly at the official website, MLI approached them with a relevant request. As the Apparatus refused to publish the minutes, we filed a substantiated suit against them to create a precedent for the future. As a result, in September 2013, MLI got the requested minutes of six parliamentary committees.

Another important achievement for transparency and accountability of the public officials was the MLI work on access to their declarations of assets. A number of MLI-supported cases designed to create an enabling litigation and encourage public authorities to comply with all applicable laws regarding the publication of the declarations and the information they provide in response to citizens' requests. For instance, MLI supported a lawsuit Victor Taran against Apparatus of the Parliament to obtain declarations of a number of MPs. Also, we filed a lawsuit for Oleg Belov against the Constitutional Court of Ukraine to obtain copies of declarations of the Constitutional Court judges.

All these measures and cases served as a demonstration of public interest in the documents and as positive practice for interested journalists wishing to have relevant data for publishing their materials.

In total, 16 cases were initiated or supported by the Institute, in 13 of which citizens received judicial protection at the national level and 3 applications were submitted to the European Court of Human Rights (ECHR). A landmark lawsuit was by the Ukrainska Pravda journalist Sergiy Leschenko against the Vyshgorod state administration for failure to provide information on sale of land in Mezhyhirya to the President Yanukovich. With the support of MLI, the plaintiff passed all instances in Ukraine and finally submitted his application to the ECHR. MLI also held a press conference to highlight the circumstances of this case allowing to raise public awareness on and legal literacy of journalists.

In parallel, two press conferences were held in 2013 to cover the progress in cases supported by MLI.

Hence, ensuring judicial protection of information rights foreseen in the legislation, MLI supported and protected the enabling for mass media environment in Ukraine.



*Experts telling about judicial protection of information rights at the MLI press-conference, 27.09.2013*

### **3.3. Methodological and Legal Support to the CHESNO Civic Movement**

In 2013, MLI continued providing its support to CHESNO – a civic movement, initiated with partner NGOs in 2012 to monitor integrity of MPs, candidates for the Parliament, Ukrainian governmental officials, and to initiate public debate on. This work greatly contributed to “filtering the power” in Ukraine and improving its transparency, accountability and openness.

MLI team’s help allowed avoiding potential litigations and other legal risks, namely thanks to due processing of the candidate MPs` appeals received, proof-reading of the candidates` profiles, continuous legal defense in several court proceedings, and daily provision of consultations on current matters of campaign.

The hot line, announced to the Movement members and posted on MLI [website main page](#), appeared an extremely helpful instrument of legal support to the CHESNO activists and website editors, PR-managers and coordinators, regional representatives and journalists using CHESNO information. In sum, over 100 instances of legal advice were provided by MLI to CHESNO in late 2012-2013.

The Legal Defense Fund for CHESNO was administered by MLI in a tailor-made manner. In 2013, legal defense in 4 court proceedings, including analysis of the lawsuits filed against Chesno, coordination of legal defense and consultations for defendants thereon. As a result, several local branches of CHESNO and relevant media representatives benefited from legal representation in their litigations.





*Ukrainian MPs report to public at the MLI-organized CHESNO Forum, 21 March 2013*

MLI supported the CHESNO Campaign in a comprehensive way with a pro-active attitude towards the public events, equally initiating and organizing several expert sessions and two public events. The public Forum of 21 March 2013 proved to be one of the most influential events, as many MPs appreciated our work and followed CHESNO recommendations on publishing their reports, list of consultants and public offices (see, for instance, personal web-site of [MP Roman Ilyk](#), who refers to CHESNO expectations).

MLI equally ensured due communication of the Movement's legal aspects of activity and its Methodology of Integrity Assessment at its key public events, including CHESNO presentations in 4 major cities of Ukraine.



*MLI lawyer spoke at the CHESNO presentation on local MPs' integrity in Donetsk, 27 March 2013*

In addition, MLI team [prepared proposals](#) on curbing non-personal voting in the Parliament, which were addressed to the politicians in a public appeal, and joined our colleagues in a July street manifesto against non-personal voting [Verkhovna Rada – Is not a Conservatory!](#)

Hence, MLI considerably contributed to the Movement efforts in the post-elections period, which resulted in disclosure of highly important information by MPs and their commitment to ensure transparency and accountability in their work. Particularly, many MPs passed to the CHESNO and made public the information of civil society's importance: names of their [assistants-consultants](#), [financial](#) and [narrative activity](#) reports, [tax declarations](#), [biographies](#), contacts of their [public offices](#) and other data.

As in December 2013 CHESNO tackled a systematic analysis of Azarov Government ministers, MLI lawyers proof-read journalistic investigation on 3 ministers' integrity, [published by media](#) and spread widely on the web.

As the CHESNO Campaign was initiated by 12 organizations, participation in such a broad coalition helped MLI extend its contacts with Ukrainian NGOs, media outlets, sociological centers, individual journalists and activists. MLI closely collaborated with Centre UA, Centre for Political Studies and Analysis, Democratic Initiatives Foundation and Committee of Voters of Ukraine forming the CHESNO Coordination Council. The Council was convened on a regular basis two times a week allowing thus the Movement members, analysts and lawyers to have a say and to efficiently hammer out joint decisions or common positions.

Solid partnership links were thus established/strengthened last year that should allow MLI effectively implement further activities within CHESNO and other socially significant projects.

It is our pleasure to note that MLI, as the other partners within CHESNO, successfully passed an independent audit, [financial and analytic parts](#), and received a positive assessment of its work from international experts.

With the Media Law Institute support, CHESNO became a tangible factor for the citizens' awareness of MPs' integrity and for shaping of the public opinion on the level, which the elected Ukrainian MPs must meet.

### **3.4. Support to Civic Initiatives: Smoke Free Ukraine**

Within its support to civic initiatives, in 2013 MLI further helped the Smoke Free Ukraine coalition with the assistance of the International Fund *Tobacco Free Kids* (USA). MLI team's focus was on Kyiv what included monitoring work and public awareness campaigns, legal analysis, public education and community building, as well as bridging cooperation with the public authority in charge.

In 2013, activity of the coalition was framed around two "smoke free" laws [No 3778](#) and [No 4844](#) that were elaborated and adopted with the MLI's input. The first one totally bans all kinds of advertising, sponsoring and sales promotion of tobacco goods, in force since September 2012. The second one, in force since December 2012, forbids smoking in all indoor public places, including medical/educational/governmental buildings, bars/restaurants, cultural institutions and public transport.

In order to determine implementation level of these two laws, MLI conducted several monitoring campaigns thereon. As its results show, legislative provision on interdiction of direct advertising of tobacco products appeared 100% implemented. Along with this, tobacco companies seen to evade laws by promoting sales of tobacco products in the points of sales. Specifically, 80% of sales points monitored had special promo facilities and display units in the shop windows and nearby cash desks to highlight a pack of cigarettes on the bright colorful background and attract attention to a particular mark of cigarettes. We also noted that 94,7% of packs of cigarettes in the windows of kiosks and other sales points were put in the fronts only with a text warning side, but not with the pictorial warning side. In September 2013, to mark the one-year anniversary of the relevant law adoption, MLI released these monitoring results to media and stakeholders.

While monitoring of tobacco advertising on the Internet, its Ukrainian segment, MLI involved a number of volunteers for the monitoring itself and to record violations of laws.

Another monitoring aimed at assessing the actual level of compliance with the anti-smoking legislation in public dining places, such as cafes, bars and restaurants in Kyiv. The results of this monitoring suggest that the overall implementation of the law remained rather high: 90.6% places that were included to monitoring were free from any case of violation; in the remaining 9,4% places (bars, clubs, pools) smoking of cigarette or hookah was detected. These results were widely disseminated and presented at the press-conference in December 2013.

Sought to ensure 100% implementation of the Law No 4844, MLI considered to involve the Antimonopoly Committee of Ukraine in due enforcement thereof. To this end, MLI developed a legal analysis of powers of the Antimonopoly Committee of Ukraine regarding the tobacco legislation. According to this analysis, cafes, bars and restaurants that allow smoking on their premises thereby violating the antimonopoly legislation by unfair competition and receive advantage over other public dining facilities.

In addition, MLI launched a public awareness campaign on the cause of smoking, public education and community building work under its support to the coalition. In particular, in May 2013 it organized a team for the Kyiv Chestnut Run. To plan joint actions with volunteers, MLI also held a series of "smoke-free drinks" – regular meetings of the project coordinators and activists.

Finally, MLI team initiated cooperation with the State Inspection of Consumers' Rights to address common challenges. Having signed a Memorandum of cooperation with it, MLI organized a number of seminars and round tables to jointly consider topical matters of the smoke-free law, such as: lack of access to a single register of business entities; absence of the term "premises of public dining institutions" in Ukraine's legislation, what creates difficulties in controlling procedures; absence of general existing judicial practice regarding control over this legislation; impossibility of inspectors to conduct inspections after working time; complicated procedure of conducting raids by Inspection together with the police; and failure to respond quickly to reports of inspection violations.

Hence, MLI team set liaisons with the state authority concerned, promoted due implementation of legislation that bans tobacco advertising, built up a network of volunteers sharing aims of this coalition, and contributed to the efficient operation of the NGOs' coalition *Tobacco Free Ukraine*.



*MLI team and volunteers presented results of the anti-smoking monitoring, December 2013*

### **3.5. Support to Civic Initiatives and Civic Councils**

By its support to the civic coalitions the Media Law Institute, helped them to get enhanced as actors that have impact on the environment – by demanding implementation of the laws, advancing public criteria of integrity, accountability and transparency.

- **Civic Initiatives**

First half of the year 2013 was marked by three cases having impact on the media environment – changes in the ownership of the independent channel TVi, accident with journalists of the 5-th channel and new legal initiatives with some censorship threats. Therefore, while supporting the “Stop Censorship!” and the New Citizen initiatives, MLI joined their public statements, as one condemning interference in the editorial policy of «Forbes Ukraine»; requesting due investigation of the attacks on journalists of the 5-th channel, other.

Thereby MLI contributed to explaining and mitigating of particular risks for the media environment and freedom of information, along with provision of its consultations to journalists and joining their public petitions to exert pressure on the government.

MLI also supported some civic coalitions by reinforcing their efforts, as of the Open Civic Platform seeking to maintain dialogue with the government and proposing positive agenda thereto. Specifically, in September Director Media Law Institute Taras Shevchenko with colleagues from the Platform met with the Chairman of the Verkhovna Rada Volodymyr Rybak and Chief of parliamentary Apparatus Valentyn Zaychuk. Journalists and NGO representatives promoted the issue of transparency in the supreme legislative body of the state, availability of its officials, openness of the meetings of parliamentary committees and other issues of public interest.

[As noted by VRU Speaker](#), positive developments as to the personal voting was a merit of media and civic movements, so the Parliament should involve experts, journalists and representatives of NGOs into consideration of its agenda.



*Taras Shevchenko and other members of the Open Civic Platform meeting with the Speaker of the Parliament, 2 September 2013*

- **Civic Councils to the Public Bodies**

Thanks to its membership in 4 civic councils at the Ukrainian state bodies, MLI team strived to bring its tangible contribution to the law-making process in the media sphere. These civic councils appear to be expert-level bringing together Ukrainian specialists in the area that seek to influence policy making of the public bodies.

This activity track of MLI allowed considering together with the public bodies such topical matters as the access to public information; personal data protection; audio-visual media services and Internet governance; digital television and public service broadcasting introduction; transparency of media ownership; media and elections. MLI also joined the Public Council of the State Inspection on Consumers` Rights Protection in 2013 with a view to keep track of regulatory changes and shape policy-making on advertising.

In May-June 2013, MLI lawyer Igor Rozkladaj contributed to the meetings of the Public Council to the National TV and Radio Broadcasting Council, devoted to legislative amendments regarding sanctions, draft Regulation on monitoring of broadcasters, advertising violations and protection of children rights. In October, one of the main topics considered was the Plan of Development of the Television and Radio Space in Ukraine.

In 2013, Mr Rozkladaj also partook in the meeting of the Inter-Agency Working Group on Freedom of Speech, which was established and moderated by the President`s press-secretary Ms Darka Chepak and concerned attack on journalists of 5-th channel and revision of the criminal responsibility for violations against journalists. As it was concluded, the Article 171 of the Criminal Code should be improved for its more efficient application by Ukrainian police and judges, so media experts considered the way to revise this article.

MLI also contributed to the June activity of the Working Group responsible for elaboration of the new law on TV and Radio Broadcasting, set up at the parliamentary Committee for the Freedom of Speech and Information. Earlier, in May 2013, MLI partook in the roundtable at this Committee on *Topical Matters of Further Improvement of the Ukrainian Legislation on Access to Public Information*. As a result, amendments to the draft law No 0947 regarding access to public information have been considered. As an outcome of this event, experts worked out a [Resolution](#), thereby calling the Parliament for adoption of this vital law in the second reading and for immediate elaboration of a draft law on creation of a single web-portal for keeping financial statements (annual declarations) of public officials.

Following violation of journalist standards by the state-owned First National TV channel in November-December, MLI lawyer Tetiana Semiletko brought the relevant matter on the agenda of the Public Council to the State Committee TV and Radio Broadcasting. As a result, the MLI-elaborated public statement on undue editorial policy and censorship at the First National TV channel, was approved by the Council and shared widely.

Advocacy efforts, channeled by MLI through the Expert Council to the Ombudsman's Representative for Access to Public Information and Personal Data Protection, resulted in a number of public expert appeals to the Parliament and President of Ukraine. Most of them concerned the inadmissibility of laws constraining the right to the freedom of expression, introduction of discrimination, children's right to the safe information space and prohibition of the homosexualism propaganda. This work also led to a solid partnership with the Ombudsman's Office.

Overall, cooperation with the state bodies resulted in bridging of new liaisons for MLI, such as a working group on improvement of criminal responsibility for violations against journalists, and in tangible influence of NGO experts on policy-making by the public bodies.

### **3.6. Network of Defenders of the Right to Access Information**

Throughout the year, MLI further developed its nationwide Network of Defenders of the Right to Information, created in 2012. This network is made up of lawyers, advocates and public activists, who specialize in access to public information, with a view to coordinate their efforts and ensure due implementation of the Law of Ukraine "On Access to Public Information".

First and foremost, MLI supported communication between members of the Network in the Google-group and the webpage on Facebook. At the beginning, discussion in the Network took place mainly at the initiative or direct involvement of MLI experts, but lately the participants showed greater activity in initiating debates and joint consultations. Particularly actively, the participants discussed issues of implementation of the access to information legislation by the public authorities in different regions of Ukraine and shared their successful experience. See more at [http://medialaw.kiev.ua/foi/foi\\_network/](http://medialaw.kiev.ua/foi/foi_network/) (Ukr).

In July 2013, MLI held its second [Freedom of Information Defenders Forum](#). Two days of intensive work consisted of theoretical and practical sessions. Representatives of the key state authorities (Parliament of Ukraine, Ombudsman Office, State Committee on TV and Radio Broadcasting), experts on access to information, lawyers who have extensive practice in cases of access to information, NGOs in access to information sphere (Mass Information Institute, Regional Press Development Institute, CHESNO movement) and members of MLI's Freedom of Information Defenders Network from various regions of Ukraine (Vinnytsya, Ivano-Frankivsk, Kharkiv, Odesa, Chernivtsi, Lugansk, Zaporijja) took part in the Forum.

As a result, the Forum allowed its 49 participants to consider the litigation practices as a result of two years of the Law on Access to Public Information implementation; transparency of state authorities; the challenges for regulating access to public information; exchanging experiences among the Network members and develop joint strategies to improve access to information; preparing recommendations with the purpose of working out the necessary amendments to the current legislation and other activities, which will improve the practice of access to information.

Upon the Forum, recommendations to the key state authorities and NGOs in media sphere were released by MLI experts. They were designed to boost awareness among the state officials and activists; to consolidate and analyze court cases for further recommendations elaboration; to initiate working out and adopting the amendments to access to information legislation with the aim of harmonizing current Ukrainian legislation with the international standards. See more information [here](#).

To date, the Network of Defenders has a considerable potential in helping people to protect their information rights in different regions of Ukraine. At the end of 2013, the Network involves more than 80 public activists, advocates, managers and NGO lawyers. By improving of communication between them and ensuring sustainable operation of the Network, MLI team thereby secures the right to information in Ukraine and provides its judicial and legal protection of this right.



*MLI Freedom of Information Defenders Forum, July 2013*

Finally, MLI convened the first informal meeting of media lawyers and experts in Kyiv on October 30, 2013. About 20 media lawyers gathered to consider the impact of the EU-Ukraine Association Agreement signing on the Ukrainian media environment. Thereby MLI has launched regular communication and exchange of ideas between the media lawyers and experts while considering topical problems in the area and, in parallel, induced establishing of personal contacts.

### **3.7. Providing Legal Consultations**

During 2013, MLI maintained its "hot line" and advised journalists and civil society activists in two main areas: general issues of legal regulation of the media and access to information.

- **Hot Line**

As a result, more than 170 consultations were accorded by MLI experts last year. Consultations were provided at no cost via telephone, e-mail, social networks and personally. Upon stakeholders` request, a significant number of applications, experts` opinions were prepared for their information requests to the public bodies, statutory documents, and letters to government agencies, etc.

Most of the requests for advice concerned common media law themes and issues of journalist interest: interference with journalistic activity, protection of the rights of journalists and their sources, particularly during peaceful assembly, protection of honor and dignity, defense in the defamation lawsuits against media, legal regulation of electoral campaigning, status of online media, legal regulation of advertising, including political one, and how to address the European Court of Human Rights concerning the right to freedom of expression.

A large share of advice was given by MLI lawyers on access to public information. Local journalists and activists remain interested in the procedure for requests for access to public information, as in appealing refusals to provide information, the ratio of the right of access to public information and the right to protection of personal data, grounds for obtaining declarations of state officials, grounds for access to the meetings of public authorities, and dispute resolution practice on access to public information.

Another focus was to provide advice within the CHESNO Civic Movement, which included consultations to journalists on their investigative articles, proofreading materials on the high-profile issues and advice on how to avoid claims of defamation.

- **Affected Journalists at Euromaidan**

Obviously, with the start of mass protests in Ukraine, MLI strived to protect journalists expeditiously and initiated creation of a common register of affected media representatives, collecting their names, the circumstances of the case and the state of consideration. The register contains information about 55 journalists and photographers, Ukrainian and foreign ones, who got injuries during clashes with security forces or got their equipment damaged in the period from 24 November to end-December 2013.

MLI lawyers contacted 37 journalists from this register, provided initial consultations thereto and offered legal protection in courts. Our experts also participated in coordination meetings of human rights defenders in the Liga and the Association of Lawyers of Ukraine to coordinate efforts of defenders, share information and fold documents. In particular, we have prepared a complaint addressed to the prosecutor on mistreatment of journalists by the law enforcement authorities or thugs.

To this end, MLI cooperated with its partner organizations, such as RPDI, IMI, NSZHU, Association of Lawyers of Ukraine, Telekrytyka, Euromaidan SOS and Liga. MLI Director was also a member of the working group on operational exchange of information of obstruction of journalists of the Committee on Freedom of Speech and Information.

By providing its advice to media actors, Media Law Institute ensured their legal protection and favored raising of their legal awareness level.

### **3.8. Education and Legal Expertise**

Frequent changes in media legislation, non-transparency of public authorities and dangerous conditions of professional activity create significant risks for journalists and civil society activists. Therefore, MLI increased its educational and legal expertise component last year to enhance capacity of the mentioned actors.

Specifically, MLI continued providing its educational services – distant-learning courses, trainings, and summer school. As for the curriculum, MLI offered the general media law education and special courses, such as freedom of information and interaction of media and judiciary – all three completed by 162 trainees.

- **Distant-learning course on Media Law**

Thanks to MLI's traditional distant-learning course on *Media Law* 77 journalists and editors received 21 lessons on Media Law thereby having obtained and enhanced knowledge on the subject matter. The course curriculum, elaborated and offered by MLI, comprised the following subject-matters: legal framework for TV and radio broadcasting, advertising, defamation, public bodies in the sphere of information policy, rights of journalists, protection of journalistic sources, regimes of access to information, and the ECHR case-law.

- **Distant-learning course on Judiciary and Media**

In 2013, MLI successfully trained 53 journalists from different regions of Ukraine within its special distant-learning on "*Judiciary and Media*". Participation in this course helped to deepen their knowledge on the judiciary system in general, on due interaction with the judiciary and getting important information while the hearings in courts. The course curriculum, elaborated and offered by MLI lawyers, comprised the following subject-matters: judiciary system of Ukraine, types of court decisions, protection of journalist sources, access to court hearings, right to fair trial, presumption of innocence, dissemination of information about the court, judges and the proceeding or investigation.

- **Distant-learning course on Access to Public Information**

Another specialized distant-learning course "*On Access to Public Information*" was developed for journalists and civic activists, who have interest in improving their knowledge about wide possibilities to access information, which is kept by public bodies, e.g. how to receive important data for their studies, publications and social campaigns. Yet, often the requestors are not fully aware of the provisions of the legislation and the rights, which they have in the context of access to information. Public activists and media representative often lack knowledge to appeal unlawful refusals to provide information. Finally, 32 trainees completed the course successfully, so the knowledge they received and skills gained proved useful, especially for investigative journalists and civic activists handling monitoring of the public officials' integrity.

- **Targeted Trainings**

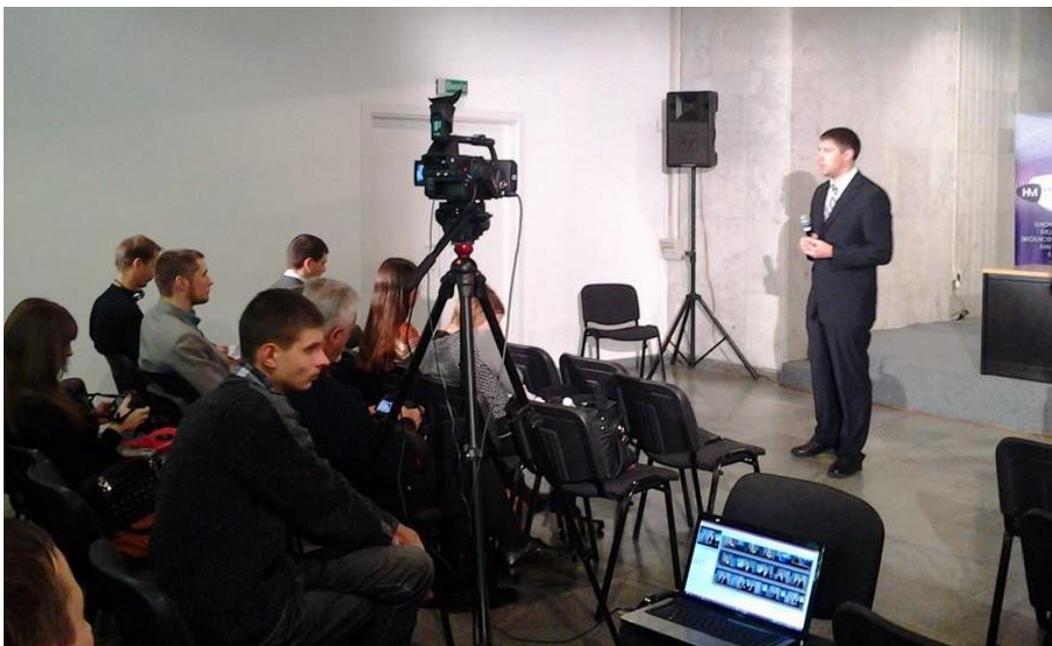
Upon invitation, MLI experts got also involved as trainers or speakers in targeted education events for media professionals in 2013.

MLI experts teamed up with colleagues from the Office of Ukraine's Ombudsman, the Kharkiv Human Rights Group and the Institute of Mass Information and held a training on access to public information for 33 representatives of the central state executive bodies in January 2013. MLI experts Mr Shevchenko and Ms Sushko spoke about transparency of the local councils in Ukraine at the conference of the Institute of Political Studies in February 2013.

Also, MLI lawyer Olga Sushko delivered a report on *MLI Experience of Carrying out of a Public Expertise of the Public Authorities` Activity* in July 2013. This seminar allowed the staff of the Kyiv City State Administration to learn about coordination with the other governmental authorities, self-organized civic actors and public councils as to the public expertise.

In November 2013, MLI director Taras Shevchenko helped to deepen knowledge of the "Novomedia" forum participants from Russia, Belarus, Kazakhstan and Ukraine on the Access to Public Information aspects.

Finally, MLI experts got regularly involved as trainers by Kyiv's Municipal Training Centre to raise capacity of its staff or the departments of local authorities on information law.



*Taras Shevchenko speaks at the international "Novomedia" forum, 15 November 2013*

- **9<sup>th</sup> International Media Law Summer School**

In July 2013, MLI held its annual International Media Law Summer School for the ninth time. This year 23 participants from 7 countries – Ukraine and Moldova, Russia, Tajikistan, Kazakhstan, Kyrgyzstan and Armenia – had three weeks of intensive and comprehensive training.

Main focus was on access to information; other topics they explored include legal regulation of television and radio broadcasting, protection of privacy and freedom of expression, case-law on defamation, Internet and new media regulation, regulation of media during election campaigns, protection of copyrights and public morals, as well as other related issues. Special focus under the program was made on the European Convention on Human Rights and Fundamental Freedoms and on the case law of the European Court of Human Rights related to the Convention implementation.

As the Summer School lecturers and trainers, MLI gathered both – national and international experts, including Ms Helena Mandic from Bosnia and Herzegovina and the Council of Europe expert Ms Gergana Zhuleva.

As a result, key added value from participation in the Summer School was raising qualification of trainees in media law, level of their law drafting skills and testing themselves in a Moot Court competition at the end of the School based on a media conflict of non-provision of public information. They equally benefit from permanent networking among fellow professionals through a Google group and a Facebook group, maintained by MLI, and from participation in regional expert-level events with other Summer School alumni.



*Taras Shevchenko distributing tasks to the participants of MLI's International Summer School, 8 July 2013*

- **Legal Expertise**

In 2013, it proved equally important to disseminate MLI's expertise that helped journalists, civic activists, lawyers and other media professionals to boost their knowledge on media and information policy. Overall, 97 information materials and 6 analytical (expert) materials on a certain topic of media law were published by the Institute, as well as over 20 expert comments were given to the media by MLI experts in 2013.

For instance, MLI attracted public attention to the oppressive Draft Law "On Combating Extremism" by delivering its [Legal Opinion](#) thereon. It was later on cancelled by the Parliament as a part of draconian laws of 16 January, during the Euromaidan mass protests.

A series of analytic articles by MLI lawyers help to assess current challenges in the media environment and learn the advisable remedies for them. So, an analytical paper by Taras Shevchenko of February 2013 focused on the international European standards governing the relationship between the candidates and the media during the elections. The entire article can be found [here](#) (in Ukr). Another article by Ogha Sushko, released in [July 2013](#), touched upon the case law of the European Court of Human Rights on failure to provide public information to requestors. Finally, [a paper](#) by Taras Shevchenko was dedicated to problems and possible limitations of political advertising in the media in line with the OSCE recommendations.

Also, several decisions and resumes of the European Court of Human Rights and other international courts were prepared and posted at MLI's website to raise legal awareness of media professionals on the ECHR approach to settling freedom of expression aspects.

- **International expert event**

MLI also succeeded to bring topical issues on the agenda of professional international community for their joint consideration. Particularly, within the OSCE annual [Human Dimension Implementation Meeting 2013](#), MLI organized a side event on 25 September in Warsaw.

It was devoted to transparency of media ownership in the Eastern Partnership countries and Turkey. Seven media experts from Turkey, Belarus, Moldova, Georgia, Azerbaijan and Ukraine shared their countries' case studies as to the achievements gained and drawbacks faced regarding transparency of media ownership, delivering an up-to-date overview of the ownership schemes. MLI invited the speakers and coordinated their preparation for the event. Our experts also moderated the discussion and brought the most topical issues to the attention of the OSCE plenary session participants.



*Igor Rozkladaj, MLI lawyer, speaks at the OSCE side event on transparency of media ownership, 25 September 2013*

#### **4. INSTITUTIONAL DEVELOPMENT OF THE ORGANISATION**

MLI visibly improved its institutional capacity by introducing new policies and strategies, and undergone tangible changes in its governing structure after a system-based audit by the international partners.

- **Strategic Management and Governance**

First and foremost, Media Law Institute adjusted its Charter having included the Supervisory Board as its governing body. All members of the Board are external and involve prominent lawyers, journalists and civic activists. Thus, distribution of competences among the General Assembly, the Supervisory Board and Director was revised according to the best European practices and stipulated in the MLI Charter.

In parallel, MLI convened a series of strategic planning sessions throughout 2013 to devise and write down necessary program documents involving all its team members. Thereby we improved and documented our policies and procedures following relevant recommendations of auditors from the Swedish International Development and Cooperation Agency (Sida) and of capacity-building managers from Internews Network, Inc.

To ensure comprehensive and long-term planning of its work, our team has elaborated MLI Strategic Plan that is valid between 2014 and 2016, with a new vision of MLI's activity, its goals and expected results by working areas. The related Risk Management Policy has been prepared encompassing rules for monitoring, analyzing and mitigating risks of strategic, operational and project level.

MLI equally worked out its Communication and Fundraising Strategies, HR Development Policy, Anti-Corruption Policy. For a sound financial management, the Audit and Procurement Policies have been elaborated and the Accountancy Policy updated by MLI.

- **Operational Management and Capacity-Building**

In addition, MLI was glad to involve in the organization already 12 members sharing its mission. To ensure availability of necessary human resources, MLI has also engaged new staff, incl. the Development Director, Financial Director and assistant into activity of the Organization.

Within their capacity-building, MLI lawyers took up a number of trainings that appeared helpful for developing project proposals, plans and its management during all cycle of the project implementation. They were devoted to the motivation of staff, building-up of strategic thinking, time management; to the tax rules for NGOs, and new accountancy software, other.

With a view to assess its organizational capacity in a comprehensive way and plan out its further improvements, MLI completed organization-wide self-assessment for 2013. The methodology for this was kindly provided and explained by Internews Network team. As a result, the MLI Plan of Organizational Development for 2014 was elaborated, as a part of its annual planning.

Hence, MLI obtained a sound framework in place and improved governance – for its efficient strategic management and governance, sound operational and due financial management within the organization – to ensure sustainability of its activity.

- **External Financial Audit**

In 2013, MLI proceeded with the organization-wide external financial audit of two years – 2012 and 2013. These audits were held on a tender basis and according to the international standards of the International Federation of Accountants (IFAC).