

**MEDIA LAW INSTITUTE ANNUAL REPORT
2012**

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1. About the Media Law Institute

Civil society organization “Media Law Institute” (MLI) is an analytic centre pooling together media lawyers and experts specializing in media policy.

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

We aspire to provide our services in a tailor-made manner – from pre- to post-service work, so MLI lawyers can be found among the members of civic expert-level councils of 5 public authorities concerned, expecting outputs from the MLI lawyers: 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.

Among key beneficiaries of our support there are: journalists and other media representatives soliciting for MLI’s 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 and the international summer school; CSOs` coalitions asking for advocacy support (e.g. StopCensorship!) and mitigation of legal risks of civic campaigns (e.g. CHESNO); and all these target groups awaiting for the Institute’s information reviews, analytic articles, books and other outputs, which are made available to the public on its web-site or Facebook page and are widely spread in electronic and paper versions.

We also strive to open new directions of our activity and to apply alternative tools and models of work, including the on-line tools of distant-learning and web-broadcasting of our events, hot lines, combined with such conventional formats of public events as press-conferences, TV interviews and forums.

The Media Law Institute expresses gratitude to all its donors and partners that provide financial and organizational support in our activity and share our mission and objectives.



2. Our Success Stories of 2012

In 2012, the Media Law Institute continued enjoying solid demand for its activity on the part of its target groups thanks to its good track-record since 2005, recognized expert abilities, and flexibility in terms of work formats.

This demand appeared equally induced by the relevant environment affecting our last-year activity. This environment was marked predominantly by the parliamentary election campaign with its traditionally increased pressure on the mass media and the freedom of speech in general. The legislative reform was focused on implementation of the new informational regulations – laws “On Information” and “On the Access to Public Information”; as well as drafting the new Law “On TV and Radio Broadcasting” and the legislation on public service broadcasting. Among the most drastic regulatory actions undertaken by the Government were the adoption of the language law, on criminalization of homosexual propaganda and a law on demographic registry to allow extensively wide collection of personal data.

Also repartition of the TV market and suppression of independent actors, decisions of the Constitutional Court of Ukraine on the freedom of information and privacy, introduction of sanctions for the violations of the personal data protection and attempt to criminalize defamation – these were the main topics in the media field during 2012.

Considering this, last year MLI activities were framed around:

- advocacy actions;
- access to public information;
- personal data protection;
- audio-visual media services and Internet governance;
- digital television;
- public service broadcasting;
- transparency of media ownership;
- media and elections;
- legal support to the CHESNO civic movement;
- participation in civic expert councils of the public bodies;
- legal education of journalists and media lawyers;
- legal assistance to journalists;
- delivery of specialized publications;
- Smoke-Free Kyiv campaign.

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

All in all, we are pleased to share our success stories of 2012:

- a bill on criminalization of defamation was rejected thanks to the wide campaigning of MLI and other NGOs against it;
- the All-Ukrainian Network of Defenders of the Right to Access to Information was set up and MLI keeps on coordinating its work; also sound implementation of the law on access to public information was ensured, combined with monitoring it and practicing strategic litigation on, defending thereby civil society’s right to public information;
- efficient legal support to the CHESNO Civic Movement, recognized by independent auditors;
- developing and giving effect to the legislative proposals containing common standards of the media coverage during elections;
- a package of recommendations for journalists on the protection privacy in media coverage elaboration was elaborated in cooperation with the Council of Europe experts;
- due enforcement of the media-related legislation was ensured via hotline for journalists we maintain;
- expert contribution to elaboration of the new law on audio-visual media services was provided;
- direct involvement in drafting the bill introduction of public service broadcasting in Ukraine and in promotion thereof among the MPs to achieve its adoption;

- systemic expert support to TV digitalization in Ukraine by monitoring the regulatory environment and preparing the expert recommendations, also protecting the stakeholders' information rights and facilitating resolution of conflicts;
- tangible contribution to the law-making and advocacy actions in the media sphere thanks to MLI membership in a wide number of the civic expert councils at the Ukrainian public bodies;
- increasing popularity of MLI's publications, summer schools and distant courses; and
- visible and efficient implementation of the Smoke-Free Kyiv campaign: from drafting laws and achieving adoption of the smoking ban in cafes, bars & restaurants to the coordinated monitoring of and complaining on the relevant legislation enforcement.

3. Description of Our Activities by Working Tracks

3.1. Advocacy Actions

MLI advocacy efforts were channeled mainly through the existing non-governmental organizations and movements promoting freedom of speech and independence of media, namely through the [“Stop Censorship!”](#) that struggles against all the forms of censorship involving 570 journalists and civic activists, and 135 organizations, and through [the New Citizen campaign](#). The latter one aims at the reinforcement of influence of citizens on social and political processes in Ukraine by joint efforts of over 50 Ukrainian NGOs.

Under the New Citizen public campaign MLI was engaged in selection of a common representative to the Constitutional Assembly. MLI also joined the CHESNO Civic Movement, launched upon the New Citizen initiative to monitor the integrity of parliamentarians and inform the public thereon.

Seeking to protect journalists' rights, MLI advised journalists of “Stop Censorship!” on the actions to undertake after their mistreatment at the 64th World Newspaper Congress opening, held in Kyiv on September 3. As a result, the journalists approached Mr. J.Mathew, the President of the World Association of Newspapers and News Publishers (WAN-IFRA) with an [Open Letter](#) calling WAN-IFRA for its intervention. In September 2012, MLI partook in [public search](#) for a guard who was impeding journalists in performance of their professional activity that took place at the aforementioned Congress.

Moreover, MLI joined the “Stop Censorship!” Movement in its public protests and appeals against the defamation bill adoption, which would have imprisoned journalists for defamation. Notably, MLI experts initiated and submitted an [Open Letter](#) to the Speaker of the Parliament, the President and the Heads of such parliamentary factions as the Party of Regions, the Communists and the People's Party, calling them for restraint in supporting the bill and for announcing about it publicly. MLI joined the relevant “Stop Censorship!” public announcement in early October 2012. Advocating against this draconian bill further, in September MLI experts took part in the press-conference at RIA “News”; in the public TV debates on the 5th and TVi channels; and in the Radiosvoboda program “Your Freedom” - the aim was to explain eventual consequences of this law adoption for the media freedoms. The bill was repealed already on October 2, 2012.

In 2012, the mistreatment of the media representatives remained left without an adequate investigation and punishment. Demonstrating this by 29 cases, we also joined [the petition](#) of 11 media NGOs to the President of Ukraine, General Prosecutor and the Ministry of Interior demanding to punish the offenders of journalists.

3.2 Access to Public Information

Seeking to facilitate development of a favorable judicial and legal practice in the sphere of access to public information, MLI set up the All-Ukrainian Network of Defenders of the Right to Access to Information and keeps on coordinating its work. To this end, we managed to involve over 60 media experts, practicing lawyers, civic activists and organizations representing 21 regions of Ukraine. Their names and contacts can be found on the interactive [Google-map](#) that we maintain with the aim to inform Ukrainian citizens on the experts and organizations-defenders they can refer to.

For an efficient internal communication, we launched a Google (merzha_infodostup@googlegroups.com) and Facebook (<https://www.facebook.com/groups/213482388756527/>) groups, and led further interaction within them by disseminating manuals, thematic digests and by opening debate on the most burning issues.

Joining the Network also implies provision of free advice on access to information: to this aim, a hotline was launched by post, mail (zahyst@medialaw.kiev.ua) and phone (044 383 20 44).

Meant to govern the Network's activity, the Regulation on the Network, Regulation on the Defense Fund of the Right to Access to Information, its application templates, communication and partnership procedures were elaborated by MLI. Applications to the Defense Fund of the Right to Access were considered and admitted by the MLI-established Steering Committee comprising 7 prominent media experts. Throughout 2012, ten cases were supported by the Defense Fund with the financial aid from the International Renaissance Foundation.

The Network remains open to new members from all over Ukraine, whereas applications to the Defense Fund for legal protection in courts are welcome as well (one may e-mail us at: zahyst@medialaw.kiev.ua).

In May 2012, we organized the Forum of Defenders of the Right to Access to Information, which convened over 40 experts in the realm of access to information. Media lawyers, experts and civil activists from Kyiv, Chernihiv, Vinnytsia, Donetsk, Ivano-Frankivsk, Kharkiv, Odesa, Kirovohrad, Luhansk, Lviv, Sevastopol, Mykolaiv, Khmilnyk shared their experience; enhanced professional knowledge and developed further joint strategy for the efficient support of free access to public information. Presentations by experts are available on our [website](#). This event was co-funded by the Internews Network, Inc. and the International Renaissance Foundation.



Forum of Defenders of the Right to Access to Information, May 2012

As the practice of exercising the right to access to public information shows, the requestors still encounter bottlenecks in this regard, since the public bodies tend to keep undisclosed the information they dispose.

With a view to bring together the most proactive requestors – journalists and media experts, MLI organized a working meeting in November 2012 – the participants shared their practical experience and identified the most topical matters for the civil society and, therefore, the relevant data to be requested by addressing the public authorities in charge. In addition, the litigation perspectives of contesting the assumed access denials have been mapped-out as well. The meeting was supported by the Internews Network, Inc.

Media Law Institute has also held two round table discussions on subjects related to access to public information. The first one, held on July 9, 2012 was aimed at the issues of litigation on access to information. 30 experienced lawyers met and shared their ideas within this event. The second round table discussion took place on July 25; it brought together 34 experts from a range of CSI countries and gave them an opportunity to exchange their experience in the respective legislation and practice.

In parallel, MLI continued advocating for better practical access to information and accountability of administration through filing over 10 requests for information with the purpose of disclosing information of public importance, appealing the illegal rejections in access to information and registering the respective claims in competent courts.

So, MLI submitted 2 applications to the European Court of Human Rights: 1) in the case concerning the failure of the Parliament to respond to the informational request, MLI received a notification that the application is not admissible; 2) in the case concerning the refusal of the Constitutional Court of Ukraine to respond to the informational request, European Court notified MLI that the application is admissible.

In March 2012, Media Law Institute launched 4 court cases in order to receive public information which was not provided by the governmental bodies. Previously we sent a series of informational requests to the state bodies enquiring certificates on registration of these institutions' personal information databases. Four

governmental bodies refused to provide copies of these certificates. Namely, those were the Ministry of Infrastructure of Ukraine, the Ministry of Defense of Ukraine, the Ministry of Healthcare of Ukraine and Mykolayiv Regional State Administration. Upon court decisions, two of these institutions were obliged to provide all the documents in question, and the other two provided the information before the litigation process started.

Upon invitation of Ukraine's Ombudsman, MLI was invited to participate in a round table on *"Right to Access to Public Information: State of Play and Perspectives"*, held in September 2012. Our lawyers briefed on MLI experience in the legal assistance related to judicial hearing of cases on access to public information.

Uniting its efforts with the Council of Europe experts, MLI participated in the December working meeting with Ms Marie Georges, CoE media expert. The discussion was framed around the balance between the access to public information and the personal data protection, its legal aspects and implementation practice.

MLI experts were also invited as speakers to three press-conferences on access to public information, organized by the leading Ukrainian NGOs.

There was also a great demand for lectures and trainings for state officials on access to information to be held by MLI lawyers: they were invited by the Center for Professional Advancement. As a result, the experts conducted educational events for 9 groups of the officials from different governmental bodies.

3.3. Personal Data Protection

In the area of personal data protection MLI team closely collaborated with the Council of Europe, mainly working out the expert recommendations for stakeholders.

In February 2012, Media Law Institute organized [the expert seminar](#) on "Protection of Personal Data and the Media". It convened 71 media lawyers, journalists, representatives of the relevant state authorities, among others – Ms L.Mudrak, Deputy Chairman, National Broadcasting Council of Ukraine, Mr O.Mervinsky, Chairman of the State Service of Ukraine on Personal Data Protection, representatives of Parliament of Ukraine, National Council of Ukraine for Television and Radio Broadcasting, Kyiv City State Administration, and some civic activists. The participants [reflected on](#) the challenges of implementation of the Law on Personal Data Protection; referred to the international standards and best European practice of the media in the context of protection of personal data, by presenting examples of Switzerland, the Netherlands and Poland. It was concluded that journalistic activity should not be regulated by law on personal data protection. Still, the experts believe that for the work of journalists there should be self-regulatory mechanisms to control the respect of private life of individuals.



MLI expert seminar on "Protection of Personal Data and the Media", February 2012

In April 2012, Media Law Institute organized the next [expert seminar](#) on "How to Work with Personal Data: Recommendations for the Media". This time, about 30 experts, incl. representatives of professional

associations - Independent Association of Broadcasters, the Television Industry Committee, the National Association of Journalists of Ukraine, Kyiv Independent Media Trade Union, and the Ukrainian Association of Press Publishers – gathered thereat. [Upon discussion](#), the Council of Europe experts committed to develop comments to the relevant law. MLI team assumed to elaborate [recommendations](#) for the media to minimize potential shortcomings while the law implementation.

Approaching the parliamentary elections period, MLI held [an expert discussion](#) on “Recommendations on media coverage of elections and protection privacy” in July 2012. Thanks to [discussion](#) and promotion of [Council of Europe recommendations](#), Ukrainian journalists would have alternative regulatory instruments in their work on coverage of elections – in a fair way and with due respect of privacy. The offered recommendations might become a regulatory document once signed by industry organizations: Association of Press Publishers, Industrial Television Committee, the Independent Association of Broadcasters and the union and others. Participants agreed with his opinion.

The consecutive expert seminar on the matter, held in October 2012, aimed to revise and finalize the Recommendations on the Protection of Privacy in Media Coverage. During this meeting the Council of Europe experts and the Ukrainian media professionals discussed the most debatable issues and worked out compromise solutions. As MLI lawyers also drafted amendments to the Sector-wide Agreement on Elections Coverage in Media, they have been considered as well. This Agreement was proposed for signing before the media organizations and trade unions to ensure the practical use of the Recommendations.

Our experts had [another meeting](#) in mid-October 2012 at the Council of Europe office and finalized the text of the Recommendations.

3.4. Audio-Visual Media Services and Internet Governance

Concerned with TV and radio broadcasting matters, MLI lawyers have been involved in activity of the working group, which completed elaboration of a new law on audio-visual media services concept (also known as a new version of the law on TV and radio broadcasting).

The concept of the new law, developed by media experts, is based on the principles of technological neutrality for non-terrestrial media, the auction licensing system, strong and transparent fee system and a system of sanctions, transparency of the media property. This concept provisions proceed from the international standards and practice. At the end of September 2012, the Parliamentary Freedom of Speech Committee adopted a decision which states that this working group will continue its activity as an official working group, assigned to elaborate a new broadcasting law.

In the view of rapid development of the Internet and new media in the country, with the support from IMS and Internews, MLI convened a round table in March 2012 for lawyers and media experts on legal responsibility in the Internet. The event presentations and discussions covered the issues of the libel cases for the on-line publications, copyright in the Internet as well as the court practice in the field. The round table was attended by around 56 stakeholders and also transmitted on-line.



MLI round table on legal responsibility in the Internet, March 2012

3.5. Digital Television

The process of TV digitalization in Ukraine, as the practice shows, is marked with repartition of the TV market and suppression of independent actors. Notably, during 2011-12 multiplexes MX-1,2,3 and 5 have been redistributed and 30 digital channels appeared in Ukraine (52 in Kyiv). Still, “ZEONBUD” Ltd has introduced the paid terrestrial TV that is deemed an instrument of unfair competition, whereas provision of the population with the digital receivers (set-top-boxes) and aeriels remains problematic.

As the secretary of the Public Council of the National TV and Radio Broadcasting Council, MLI regularly monitors the relevant regulatory environment and prepares its opinions or recommendations on the matter. In April 2012, MLI delivered its expert comments to the National Council work on digital television introduction, specifically on the terms used in the report, but unforeseen by legislation; references to the non-accessible documents; use of ambiguous statements on the digital television implementation plan; and lack of information on some of multiplexes.

On June 21, MLI conducted a round table on «Introduction of Digital Broadcasting in Ukraine: Challenges and Prospects». Features of legislation on Digital Broadcasting in Ukraine, current situation in this field in Ukraine, Digital Broadcasting introduction and regulation were discussed at the event, supported by the Internews Network, Inc.

Importantly, we elaborated and distributed the Report on “*Digital Broadcasting in Ukraine 2005-2012*”. MLI analyzed the status of digital broadcasting in Ukraine and identified the inconsistency actions of the authorities, lack of quality changes to the legislation, permanent alteration of standards as the risk factors related to sporadic access to digital broadcasting and, thus, to information among citizens.

3.6. Public Service Broadcasting

Introduction of the public service broadcasting (PSB) system in Ukraine remained topical last year.

In order to discuss the matter and possible ways to further proceed with the reform, MLI lawyers participated in the expert seminar “The Future of Public Service Broadcasting” organized in April 2012 by the EU-CoE Media Project in Ukraine.

As in October 2012 the Cabinet of Ministers approved the draft law "On the Public Service Broadcasting System", it has been registered at the newly elected Parliament in December 2012 under No [1076-1](#). Actually, two alternative draft laws on PSB have been registered at the Verkhovna Rada: the one initiated by MP A. Shevchenko and elaborated with the MLI participation, and another one – initiated by the Cabinet of Ministers No [1076](#). Main differences between these two draft laws imply different approach to the creation of steering councils at the public service broadcasters, to the financial control thereof and peculiar priorities in the broadcasters` activity. Given that MLI was involved in drafting the first bill, our team further promoted it among the MPs of this convocation to consequently achieve its adoption.

With a view to provide a comparative analysis of these two bills Mr Igor Rozkladaj, MLI expert, prepared a paper, posted [at MediaSapiens](#) – the specialized web-portal for media experts. It was preceded by his analytic article *The Turning Circle of Public Service Broadcasting* - published by Telekritika - depicting the state of play with PSB in a comprehensive way.

3.7. Transparency of Media Ownership

Transparency of media ownership appeared one of the permanent deficiencies of the Ukrainian media sector.

MLI director Taras Shevchenko and MLI lawyer Igor Rozkladaj developed the draft law on transparency of media ownership. This draft provides for a new term “ownership structure” and includes a requirement for all electronic media to provide information about their ownership. MLI’s draft law on transparency of the media ownership was assessed by Article 19 as the independent international expert in the field.

Due to the MLI's long-standing public advocacy and promotion of media transparency, the state authorities focused their attention on this topic and, as a result, in July 2012 the Ministry of Justice of Ukraine proposed for the public discussion its own version of the media ownership transparency law. In its turn, MLI submitted its comments and proposals to the Ministry’s draft based on provisions of the MLI-developed law.

Also devoted to the media transparency and NGO regulations, 2 distant votings were held by the Public Council at the State Committee of TV and Radio in July 2012. Worth noting is that Ms. Olha Sushko, MLI lawyer, submitted additional amendments to the draft law on ensuring media transparency in Ukraine.

3.8. Media and Elections

The parliamentary election campaign, which lasted during August-October 2012, was marked by a range of violations or abuse of information rights, and infringement of journalists' rights.

To highlight the overriding violations of law on the elections campaigning and its coverage in mass media, the Media Law Institute and the Institute of Mass Information – [convened a press-conference](#), supported by Pact Inc. and IFES. Thus, in October 2012 media representatives and civic activists had an opportunity to learn from Mr. [Taras Shevchenko](#) (MLI Director) and Ms. Olga Shalays'ka (IMI Development Manager) the most common violations and the ways to avoid them, [exemplified](#) by a range of cases with the printed media.



MLI holding a press-conference on media and elections, October 2012

To sum up the lessons learnt and work out the necessary amendments to the current electoral laws, MLI organized [an expert discussion](#) in December 2012, supported by USAID and Internews. Media lawyers, journalists, representatives of the public authorities concerned and media associations participated in this event. The experts outlined media activity during the elections under the existing legislation, its implementation practice and key obstacles hindering the media from performing their functions. Mr Shevchenko, MLI director, presented *de lege ferenda* proposals for joint consideration. They related to differentiation of political advertising and pre-electoral agitation, improving requirements thereto, fixing the rules for political debates, disclosing candidates' biographies and many other issues of public interest.

Vital aspects of media and elections were explored by Mr Shevchenko, MLI director, in his articles on *Legal Regulation of Election Campaigning in the Mass Media: Current State of the Matter and Perspectives of Improvement* (published at the NaUKMA research sketches vol. 129); on the *European Standards of Media Coverage of Election Campaigns and of Candidates' Access to the Media*, which was published at the Parliament's edition "Viche" 20/2012; and the one on *Information Support of Elections as a Legislative Innovation of Electoral Process at the Elections and Democracy* edition No 2 (32). The latter one analyses a legislative novelty of Ukrainian electoral legislation – a separate section in the Law of Ukraine "On Elections of People's Deputies of Ukraine" on informational support of elections.

3.9. Legal Support to the CHESNO Civic Movement

The CHESNO Movement, with the Media Law Institute's support to, became a tangible factor for the voters' awareness of parliamentary candidates and for shaping of public opinion on the level, which the elected Ukrainian MPs must meet. CHESNO-promoted integrity principles proved to be equally shared by majority of the elected MPs and induced new legislative initiatives reflecting these principles and better accountability of some MPs. The Movement's achievements, to a great extent, were enabled by the Movement's legal team, pooled by the Media Law Institute.

Since August 2012 MLI has been actively involved into CHESNO activity as a member of New Citizen partnership and co-founder of this Movement. First of all, MLI team had been securing legal correctness of all outputs prepared and disseminated by CHESNO: current press-releases, weekly analyses on deputies' violations. Also, we had been providing legal advice to the CHESNO analysts, PR managers and regional

coordinators, and journalists using CHESNO information, on a daily basis. Most of the consultations were given via a specially created hotline, which worked as the telephone line (044 383-20-44) and the e-mail service (chesno@medialaw.kiev.ua). All this allowed the Movement's participants to work according to the current legislation and in a well-coordinated manner.

MLI experts extensively contributed to drafting (together with CHESNO analytical team) of the [Methodology](#), according to which the Movement examined MP candidates' integrity and published summaries in [CHESNOmeter](#); as well as other guiding documents such as [a Statement of Legal Grounds](#) and disclaimers for the CHESNO outputs.

MLI lawyers proof-read over 2300 profiles of candidates for the purposes of legal verification of the information compiled. In parallel, CHESNO had been receiving the candidates' appeals contesting their profiles on the Movement website. Therefore, our team processed about 120 appeals – by assessing the counter-argumentation and verifying sources provided – and prepared their opinions for the CHESNO Coordination Council consideration. Upon its decision either to reject or accept in full/partially a particular appeal, the motivated answers thereto were drafted and sent to the candidates.

Given the number of candidates – potential plaintiffs, assessed by the Movement, and the wide visibility of CHESNO Campaign, the quantity of lawsuits against CHESNO appeared quite modest. In a few cases, which led to litigations, the legal team provided all the necessary support, so the Movement was not affected significantly and was able to continue its activities.

In 2012 MLI ensured legal defense in three court proceedings, brought against the CHESNO regional activists. First, MLI legal team consulted a CHESNO activist, who was fined for 51 UAH for distribution of the Movement leaflets in Chernivtsi, preparing him for defense in the court and drafting an appeal. Second, for another legal dispute involving the CHESNO member organization in Lviv – the Committee of Voters of Ukraine – and a local TV channel “ZIK”, MLI drafted a statement of defense. For the third – defamation case, initiated by a candidate Mr. Lukashuk in Khmelnytsky, – MLI selected a lawyer and assisted him with drafting and compiling the documents needed for the court hearings, incl. some defensive evidence.

Coordination Council of the Movement 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. 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. Also, MLI organized near Kyiv several strategic meetings of CHESNO experts to build-up their capacity and network, to elaborate joint algorithms of work and distribute functions.

Along with active participation in the Council sittings, MLI also strived to ensure due communication of the legal aspects of the Movement activity to the media and citizens at all the CHESNO events – forums, press conferences, public presentations.

Specifically, on August 7, Mr. Shevchenko made a presentation at [the press-conference](#) devoted to major changes in “CHESNOmeter” – the candidates' assessment database. Our lawyers equally participated in [public presentation](#) of the revised CHESNO Methodology on August 28, 2012.



Taras Shevchenko speaks at CHESNO press-conference, August 2012

In late September CHESNO presented [its work results](#) on monitoring of the candidates adopted by the political parties, whereas Mr. Shevchenko (MLI Director) outlined legal principles of the Movement activity and its core approaches to consideration of appeals submitted by the candidates; as in October 2012, at [the presentation by the Movement, devoted to its monitoring results](#), held in Poltava. Mr. Shevchenko also intervened at the CHESNO Youth Forum of the Future-2012 in October [in Yalta](#) to explain the provisions of the Law of Ukraine “On Access to Public Information” to about 80 participants from all over Ukraine.

In the post-elections period, MLI focused on elaboration of the new CHESNO Methodology for assessment of newly elected MPs and legal grounds for the Movement work, as well as maintained the Litigation Fund.

For the quantitative results, the level of citizens’ awareness about the integrity of candidates for MPs increased and the number of unfair deputies in the Parliament was minimized. The Movement reached [more than 25 million of Ukrainian voters](#), who were at least aware of its goals and findings, so the level of public awareness of the MP candidates grew significantly during the electoral period. Moreover, some political parties participating in the elections undertook obligations corresponding to the CHESNO criteria (see [example 1](#), [example 2](#), [example 3](#)). [As the statistics show](#), 331 candidates, who did not pass the CHESNO’s test, got elected. This means that one third of the new Parliamentarians are the persons, who were not indicated as violators of CHESNO criteria and therefore can be regarded as fair politicians. Compared to the fact, that less than 1% of the MPs of the previous convocation met CHESNO criteria, such result is a sign of a positive change in the Parliament of Ukraine.

As to the qualitative impact, CHESNO criteria found their reflection in some legislative initiatives of MPs: on shrinking MP’s privileges, [personal voting](#) and [invariability of their political position](#). Moreover, the European Court of Human Rights in its recent Volkov vs Ukraine [judgment](#) ruled that [non-personal voting](#) by Ukrainian MPs violated the Convention: “145. The MPs present deliberately and unlawfully cast multiple votes belonging to their absent peers. ...the Court considers that the vote on the applicant’s dismissal undermined the principle of legal certainty, in breach of Article 6 §1 of the Convention.”

Finally, CHESNO was referred to in [the Freedom House report](#) 2012 as a public campaign advancing cause of the fair election process.

MLI legal assistance to CHESNO was supported mainly by the International Foundation for Electoral Systems (IFES), also PACT Inc. and Internews Network.

3.10. Participation in Civic Expert Councils of Public Bodies

With a view to jointly shape the media regulatory environment, MLI maintained working liaisons with the relevant public bodies regularly participating in their Civic Expert Councils’ work. For 3 years MLI has been a member of the Public Council of the National Council on TV and Radio Broadcasting and for 2 years the representative of MLI participated in the Public Council of the State Committee of Television and Radio.

Specifically, in 2012 Mr. Igor Rozkladaj, MLI lawyer, participated in 6 meeting of the Public Council of the National Council on TV and Radio Broadcasting. Ms. Olga Sushko, MLI lawyer, took part in 7 meeting of the Public Council of the State Committee of Television and Radio. The most topical issues at these meetings were regulation of children’s broadcasting; introduction of the public service broadcasting; implementation of the Access to Public Information Law; reforming the state and municipal print media; promotion of media transparency and introduction of digital television.

Concerned with proper implementation of the access to information law, in February and April 2012 Mr. Igor Rozkladaj took part in the meetings with Mr. Denis Ivanenko, head of the Main Department on Access to Public Information Control within the Presidential Administration. Having considered the bottlenecks in the new law application, both sides decided to provide recommendations on its appropriate implementation.

Our lawyers also pro-actively participated in the Expert Council to the Ombudsman’s Representative for Access to Public Information and Personal Data Protection since September 2012. It happened after the new Ombudsman, Ms Valeria Lutkovska, was appointed and announced the new transparency and openness policy. Under the Expert Council to the Ombudsman’s Representative for Access to Public Information and Personal Data Protection, MLI elaborated some expert proposals and signed several appeals to the policy-makers.

First, in October 2012, this Expert Council addressed the parliamentary Committee for the Freedom of Speech and Information with [the expert proposals](#) to refine the draft law No 10455, which amends the laws “On Information” and “On the Access to Public Information”.

Second, MLI signed several October appeals of the Expert Council to the President of Ukraine, calling him for veto over the law “On the Single State Demographic Register and Documents Certifying the Citizenship of Ukraine, the Person’s identity or its Specific Status”. [According to the Expert Council](#), this law contradicted the Constitution of Ukraine, its international obligations and violates the human rights. [Another appeal](#) demanded to veto amendments to the personal data law No 10472-1 and refine it in line with the expert proposals provided earlier.

MLI also took part in elaboration of and signed the public statement of the Expert Council of October 12, addressed to the Parliament and [stating](#) the inadmissibility of laws which constrain the right to the freedom of expression and introduce discrimination. It refers to the draft law (of October 2, No 8711) on ensuring the children’s right to the safe information space and criminalization of the homosexuality propaganda.

Upon invitation of Ukraine’s Ombudsman, Ms Olha Sushko and Mr Rozkladaj, MLI lawyers, also took part in a [round table](#) on “Interaction of NGOs with the Ombudsman’s Office as to the Access to Public Information”, held in November 2012. Along with the other 20 NGOs they considered the current challenges faced when getting access to public information. Representatives of the NGOs concerned advocated for taking up joint training and monitoring actions on human rights or law-making work in cooperation with the Ombudsman’s Office.



MLI experts take part in a round table at the Ombudsman’s Office, November 2012

Meanwhile, MLI joined the Public Council of the State Inspection on Consumers` Rights Protection with a view to keep track of regulatory changes and influence policy-making in the sphere of consumers` rights protection regarding the control over advertising.

Finally, MLI participated in the activity of the Working Group, set up at the parliamentary Committee for the Freedom of Speech and Information, responsible for elaboration of the new law on TV and Radio Broadcasting.

3.11. Legal Education of Journalists and Media Lawyers

In 2012 Media Law Institute held a range of educational activities, including its traditional distant-learning courses.

In February 2012 a special course on access to public information, which began in October 2011, was finished. More than 100 persons studied online-lessons and passed a final test on legal regulation of receiving information from the government.

In April 2012 a general distant-learning course on media law was launched. It pooled together 86 journalists interested in building-up their knowledge of media law. Upon the final test, 67 participants successfully completed the course and were awarded the MLI certificates in June 2012.

Again, starting in October 2012, MLI delivered the same course. This time 95 trainees have been provided with 21 lessons on media law. 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. Thanks to the new platform for online studies, introduced earlier, the course proved to be well-coordinated, systematic and tailor-made thanks to continuous communication trainer-trainee via the online forum.

Additionally, MLI led participation of the Ukrainian Student Team in the Oxford Media Law Moot Court Competition. It is a highly respectable international competition for law students which promotes best standards of media law and trains young lawyers in the protection of freedom of expression and of information. The Moot Court took place in Oxford on 21-24 March 2012. The Ukrainian team consisted of 2 student-participants and 1 team coach – MLI Director, Mr. Taras Shevchenko.

With the aim of strengthening capacity of media lawyers, MLI subsequently held its VIII-th International Media Law Summer School from July 16 till August 3, 2012. This year 22 participants came from six countries, including Ukraine, Russian Federation, Tajikistan, Kyrgyzstan, Armenia and Moldova. Among the Summer School students were practicing lawyers, academics, journalists, civil society activists and law students.

During three weeks of intensive studies, Summer School participants have been exploring legal regulation of television and radio broadcasting, protection of privacy and freedom of expression, access to information, 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. The Summer School lecturers and trainers traditionally included both national and international experts. As an extra-curricular activity in the framework of the Summer School, MLI convened a round table discussion on the modern challenges to access to information in the post-soviet states.

This Summer School was co-funded by the Council of Europe and the International Media Support (IMS); Internews supported participation of 7 persons.



Students of the Summer School at the meeting with Ukraine's Ombudsman, July 2012

3.12. Legal Assistance to Journalists

Throughout 2012 MLI has been assisting journalists in court litigations and providing thereto expert consultations. Notably, the consultations were provided to over 70 journalists. Their requests concerned, *inter alia*, the issues of potential defamation risks, access to public information, fair use of copyrighted materials, and publication of private photos, the liability of Internet-editions, feasibility of creating a civil council at the TV channel, wording out information requests and paying for the access to large volumes of documents, etc.

For instance, Mr. Taras Shevchenko, MLI director, consulted a journalist of “Telekrytyka” on the right of regional authorities to require publication of sponsored materials in district newspapers. Consequently, an [article](#) was published at “Telekrytyka”. Also, Mr. Igor Rozkladaj, MLI lawyer, advised a journalist of “Deutsche Welle” on the cop-watch movement in Ukraine and the right of people to filming police officers. As a result, relevant [article](#) was published at “Telekrytyka”. Mr. Rozkladaj also helped Ms. Nataliya

Lygachova, a chief editor of “Telekrytyka”, to write down a statement on the web-site’s non-involvement into the publication of private photos. Furthermore, MLI consulted Mr. Andriy Yanitskyi, a member of the Independent Media Trade Union, who asked about the possibility and advisability of the unified press cards introduction.

Since June 2012, the Institute also started providing legal support to “Stop Censorship!” activist Mr. Artem Sokolenko in his court case on the prohibition of a peaceful gathering.

Thanks to MLI consultations journalists produced materials of high quality and avoided possible claims regarding their outputs preparation or lawsuits after publication of their materials.

3.13. Specialized Publications by MLI

In 2012 Media Law Institute continued compiling and issuing its regular Media Law Electronic Bulletin and specialized handbooks.

In particular, Media Law Institute contributed to drawing up of the *Scientific and Practical Commentary to the Law of Ukraine "On Access to Public Information"* ([«Науково-практичний коментар до Закону України «Про доступ до публічної інформації»](#)). The publication was initiated by the Committee of the Verkhovna Rada of Ukraine on Freedom of Expression and Information and was presented at a special public event in the Parliament in March 2012. It provides a detailed explanation of every article of this act and is recommended for use in administrative and judicial practice. One of 4 authors of the Commentary is MLI Director, Taras Shevchenko.

MLI also compiled a book *Freedom of Expression: the Decisions of the European Court concerning Ukraine* ([«Свобода вираження поглядів: практика Європейського Суду щодо України»](#)). The digest has a practical value and is designed for judges, lawyers, officials, journalists, community leaders and others working on protection of freedom of expression and using the practice of the European Court.

MLI experts Taras Shevchenko, Igor Rozkladaj, Anna Balatska and Olha Sushko were engaged in writing a handbook named *Alphabet on Access to Public Information* ([«Абетка з доступу до публічної інформації»](#)). The edition expounds provisions of the law on public information and shows the best ways to use them to protect one’s rights and to get the information one needs. It also describes various situations and problems that can be solved by the proper use of the law on access to public information. MLI provided materials on strategic litigation as well as a graphic structure of the public authorities in Ukraine which may help journalists and activists with determining the proper authority for requesting.

The Institute also co-wrote the *Guidelines on Practical Implementation of the Law of Ukraine "On Access to Public Information"* ([«Методичні рекомендації щодо практичного впровадження Закону України «Про доступ до публічної інформації»](#)). The book contains practical recommendations on the order of fulfilling of the relevant law in public authorities and local self-governance bodies. The edition is created for the officials responsible for access to public information.

MLI lawyers became the co-authors of the handbook *Information on Local Authorities* ([«Інформація про місцеву владу»](#)), published in 2012, by preparing articles on access to information. This book was developed by a group of administrative and media law experts and was published by the Institute of political education (IPE). This book helps citizens and civic activists to understand the role and nature of the local governance. The manual was widely disseminated among public activists and local communities.

Moreover, Media Law Institute continued preparing and issuing its [Media Law Electronic Bulletin](#) which contains media law news digest and information on the legal initiatives in the field. The bulletin is sent to the professional audience in the number of more than 480 subscribers.

3.14. Smoke-Free Kyiv

Media Law Institute stands for reduction of smoking and strengthening of people’s health. Concern with this, MLI implements a project *Smoke Free Kyiv*, supported by an International Fund *Tobacco Free Kids* (USA).

Previously, MLI lawyers in cooperation with other experts from a national Coalition “For Smoke Free Ukraine” have developed draft laws on the ban of smoking in cafes, bars and restaurants and on the ban of all kinds of tobacco advertising and sales promotion.

The next purpose was to achieve enactment of the “smoke free” laws. To this aim, MLI project *Smoke Free Kyiv* conducted a pro-active advocacy campaign. The campaign was carried out in cooperation with other

NGOs and the national Coalition “For Smoke Free Ukraine”, also engaged volunteers and activists. In particular, MLI volunteers monitored Kyiv night clubs to see whether clubs obeyed the rule of providing to non-smokers at least 50% of premises of the public dining places as a completely smoke-free area. The results of the monitoring showed that 100% of clubs violated the law. MLI presented the results at press conference and then sent an open letter from 10 largest Ukrainian NGOs to the Head of Kyiv City Administration Oleksandr Popov to stress the total violation of current anti-tobacco laws. During April and May 2012 Smoke Free Kyiv took part in a signature gathering campaign to support the law on the ban of smoking in cafes, bars and restaurants when the law was supposed to be adopted by the Parliament. In addition, a huge work on information support and public awareness on the cause has been done.

Finally, two “smoke free” laws were adopted and came into force. The first one, [the Law of Ukraine # 3778](#) that amends the Law of Ukraine “On Advertising” and totally bans all kinds of advertising, sponsoring and sales promotion of tobacco goods, was signed by the President of Ukraine on March 13, 2012 and came into force on September 16. The second one, [the Law of Ukraine #4844](#), bans smoking in all indoor public places including medical/educational/governmental buildings, bars/restaurants, cultural institutions and public transport. It was adopted on May 24, 2012 and came into force on December 16, 2012.

Ensuring 100% implementation of the “smoke free” laws became the next goal of *Smoke Free Kyiv*. For this purpose, in June-July 2012 negotiations were held with the head of the State Inspection of Consumers’ Rights which is the state control institution on the issue. An agreement on cooperation was achieved and the Memorandum of cooperation was signed in August 2012.

MLI became a member of the Public Council at the State Inspection of Consumers’ Rights and conducted training seminars for its representatives to find the best ways to ensure effective implementation together. Involving volunteers and activists, *Smoke Free Kyiv* monitors the situation with smoking in public places and tobacco advertising to obtain data about the level of implementation of the law and sends complaints about offenses to the Inspection.

In addition, the *Smoke Free Kyiv* project works on public awareness on the cause of smoking, on public education and community building. In particular, in May 2012 it organized a team for the Kyiv Chestnut Run. To plan joint actions, MLI also held a series of “smoke-free drinks” – regular meetings of the project coordinators and activists.

Moreover, two *Schools of Anti-Tobacco Activists* were held by MLI and proved to be strong community building events. Graduates of the anti-tobacco schools became active “smoke free” volunteers. Among other activities, MLI also undertook crowdsourcing through social media, created a google map “No Smoking Here!” of Ukrainian smoke free cafes, bars and restaurants, in parallel, a special application “Smoke Free” for iPhone and iPad was developed by an activist, our team participated in creating the anti-tobacco social advertising posters, media publications and others.



Smoke-Free Kyiv team at the Chestnut Run, May 2012