

Freedom of Media in Georgia

(Analysis of cases litigated by GDI between 2021 and January-May of 2022)

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Introduction and key findings

Protecting freedom of expression and promoting appropriate legal standards is one of the GDI's priorities. Within the framework of freedom of speech, the freedom of the media, the legal status of journalists, and guarantees related to their professional activities are of fundamental importance. In Georgia, several international organizations have noted a significant deterioration of the media freedom situation in recent years. The conclusions about the deteriorating media environment in Georgia are consistent with the findings of GDI's monitoring of legal and political processes. Legislative changes/initiatives limiting media freedom, arbitrary expansion of GNCC powers and its illegal decisions, weakening of legal guarantees for freedom of expression by the judiciary, hateful treatment of journalists by the State-political officials, The intensification of far-right groups, and open aggression against media representatives, to which the state does not respond with appropriate preventive and repressive measures, are problems that significantly undermine the quality of media freedom in Georgia.

The current situation has created the need for a systematic response by the civil sector. To this end, GDI, with the support of the European Endowment for Democracy (EED), implemented a project entitled "Protection of media freedom by improving media regulations in law, administrative practice and case law"

This report presents the results, findings, and current challenges of the GDI project to improve the media environment in Georgia from 2021-to 2022 (January-May 2022). As part of the project, GDI examined legislative initiatives, activities of the Georgian National Communications Commission, and court decisions, provided legal assistance to media organizations and journalists, and systematically analyzed the regulatory framework affecting the media environment through the evaluation of legal documents.

The following trends were identified during the reporting period:

- The National Communications Commission of Georgia (GNCC), to protect the juveniles against the harmful influence, limits the placement of programs of artistic, historical, and cognitive value, and on this basis imposes legal responsibility on broadcasters;
- GNCC arbitrarily defines "political advertising" and assigns heavy responsibility, mostly to critically-minded broadcasters, in the absence of a clear ban on political advertising in the inter-election/non-pre-election period;
- GNCC has arbitrarily appropriated to itself the mandate to regulate obscenity, which is to control the content of broadcasters;
- Decisions of the Georgian National Communications Commission, in several cases, do not meet reasonable standards of justification, and sometimes even contradict its established practice;
- The statements of government officials about critical media continue to be characterized by aggressive, hatred-filled content. We believe that such statements provoke negative attitudes toward the representatives of the same media in society, which shall be manifested in further violent actions.;

- The number of violent crimes against journalists, media managers, and media representatives motivated by discriminatory/professional activity has increased critically. And the response of the judiciary, in most cases, is ineffective or inadequate.;
- Cases of illegal surveillance/covert eavesdropping on journalists' private communications have been revealed, which is a gross interference in the professional and personal lives of journalists and jeopardizes the free exercise of journalistic activities, media freedom, and the possibility of its effective operation;
- In a dangerous new trend, by filing defamation lawsuits, the government is openly trying to use the courts to suppress critical opinions, and the courts are unjustifiably satisfying such lawsuits and threatening freedom of media, speech, and expression.
- The ruling political party periodically announces and implements initiatives/legislative changes restricting the freedom of media in the country.
- During the reporting period, cases of biased judiciary on the ground of political opinions against critical media leaders were identified.

1. Georgian media environment in general

The extent to which media freedom is protected is a clear indicator of the State's commitment to a democratic course. Free media is a prerequisite for an open, pluralistic and tolerant society, without which the process of building liberal democratic institutions is a facade. The extent of government accountability to the public depends on the legal guarantees of critical media and its free existence. According to Clause 3 of Article 17 of the Constitution of Georgia: "Mass media shall be free. Censorship shall be inadmissible. Neither the State nor individuals shall have the right to monopolize mass media or the means of dissemination of information". While this constitutional provision imposes a negative obligation on the State not to unreasonably restrict the media (media organizations), it also imposes a positive obligation to protect the media against threats by certain groups in society.

In 2021-2022 Georgia's media environment faced some special challenges. The quality of media freedom protection was negatively affected by the actions/inaction of radical social groups as well as the State officials, government agencies, and their public statements.

According to the annual report of Reporters Without Borders (RSF), the freedom of the press in Georgia has deteriorated to an unprecedented level in 2021-2022 - Georgia has moved from 60th to 89th place in the World Press Freedom Index. The organization emphasizes that "2021 was an unprecedented year for Georgia in terms of verbal and physical assaults on journalists. Among the aggressors, included government and other public figures, especially during the election campaign. "Official investigations lack transparency and effectiveness, which demonstrates that those found guilty of crimes against journalists often go unpunished."

Challenges in Georgia's media environment, such as the persecution of professional journalists, the ineffectiveness of the investigative agencies, and verbal attacks on media by government officials, are also cited in the 2022 [U.S. State Department](#) and [Human Rights Watch reports](#).

One of the main reasons for Georgia's huge drop in the International Press Freedom Index is the facts of aggression against journalists on July 5, 2021, and the ineffective state response. On July 5, 2021, the clergymen, members of ultranationalist, pro-Russian, homophobic, and hate groups violently and verbally abused citizens, the LGBTQI+ community, civil society activists, and media representatives who were present there to cover the events. They deliberately attacked, injured, and insulted media representatives, damaged and destroyed their equipment, and obstructed their journalistic activities. As a result, at least 53 members of the media were injured and Lekso Lashkarava, a cameraman for the Pirveli TV channel, died a few days after the physical assault.

Both the number of affected journalists and the intensity of violent actions by ultranationalist groups indicate that the state has failed to fulfill its positive obligation under the constitutional guarantee of media protection and has infringed on the dignity of individuals in the sphere of journalistic/professional activity.

RSF was also quick to respond to the events of July 5, 2021. [According to it](#): „Attacks on 53 journalists is a major setback for press freedom in Georgia“. “Reporters Without Borders (RSF) condemns the culpable passivity displayed by the authorities and calls for all those responsible for these illegal acts to be punished.”

The tense situation in the country in the context of media freedom is exacerbated by the harsh statements and actions of the authorities against journalists. In particular, on July 14, 2021, Georgian Minister of Culture and Deputy Prime Minister Thea Tsulukiani announced the so-called need for a law to restrict fake news: "The public is convinced that freedom of speech is 'something untouchable deity that cannot be touched. But freedom of speech is the only article of the European Convention that explicitly states that it has very important obligations." According to him, "one of the duties of the media is 'to provide the public with correct and verified information, otherwise it is not freedom of speech.

Thea Tsulukiani's call for introducing a kind of filter for the "correctness" of Media freedom of speech, in addition to deepening the polarization of society, raises the risks of unwarranted substantive (content-based) regulation of media freedom and speech. A media organization acts within the framework of an independent editorial policy and at the same time is a kind of platform for the formation of a marketplace of ideas. The production of a marketplace of ideas amid the gathering of different opinions establishes the right information, rejecting the wrong information. Thus, for a society based on democratic values, it is axiomatic that "correct" information is not an end in itself; it is usually created in parallel with public discussion. The main function of the media is to facilitate public debate. Thus, in cases where the intentional dissemination of disinformation that could lead to a violation of individual rights (slander) is prohibited by law, any attempt to establish a filter for the "correctness" of the information covered by a media organization carries increased risks of censorship.

The statement of Georgian Prime Minister Irakli Garibashvili showed clear signs of discrediting the media. The Prime Minister said: "Most TV stations want to turn society into Zombies, they want to bombard all of society with these artificially created crises, sabotage, blackmail and conspiracies against their people and their country.

On September 29, 2021, Tbilisi Mayor Kakha Kaladze addressed journalists who criticized the government with the following phrases: "There are no bigger radicals than you, people dirtier than you in this country," "These are your TV shows [and] all the dirt that a person can invent".

GDI does not question the right of public officials to express their opinions, including expressing highly critical views on the media; however, the accompanying aggressive content has a negative socio-political effect, polarizing society, leading to the formation of radical groups, and encouraging persecution of journalists for their professional activities. With top State-political figures allowing themselves to openly discredit journalists, the media have to act under political pressure and face direct aggression from radical groups in society

2. Activities of the National Communications Commission regarding broadcasters

The National Communications Commission of Georgia is a constitutional body with a mandate to protect media pluralism, and freedom of speech in the media, prevent monopolization of the media and protect the rights of consumers and entrepreneurs in broadcasting and electronic communications. Indeed, GNCC is supposed to be the guarantor of private or public interests in broadcasting, but the exercise of its public powers often carries the risk of arbitrary and unjustified interference in the scope of broadcasting autonomy. This happened repeatedly in Georgia's normative system and earned harsh criticism from local and international organizations.

The decisions and established practices of the National Communications Commission have a significant impact on media freedom under Article 17 of the Georgian Constitution. Thus, the Commission is required to establish uniform practices consistent with constitutional standards, consider issues of administrative responsibility against broadcasters on a case-by-case basis, and justify each decision it makes. Otherwise, the practice developed by the Commission will significantly infringe on the rights of broadcasters.

Thus, since GNCC is empowered to make important media-related decisions, GDI systematically monitors its activities and pro-actively responds to them.

April 12, 2022, The U.S.e Department of State report explicitly addresses the Commission's political influence: "Georgia's National Communications Commission [in 2021] was influenced by the ruling party," the report states.

The methodology of legal interpretation gives the norms enforcer a certain amount of discretion, although discretion must be exercised not in pursuit of imposition of disciplinary responsibilities on

legal entities (in this case, broadcasters), but in the spirit of protecting the rights and freedoms guaranteed by the Constitution and the European Convention. The issues addressed in this GDI report highlight the negative tendency of the National Communications Commission to bring administrative proceedings against broadcasters based on flawed, and in some cases incorrect, legal arguments and find them to be offenders.

2.1 The concept of political advertising and imposition of fines on broadcasters for placing the political advertising

In the context of regulation of media organizations by the Georgian National Communications Commission in 2021-2022, the trends identified in the qualification of audiovisual materials distributed by broadcasters as "political advertising" deserve special notice. In this regard, GDI identified two main problems:

1. The Commission's arbitrary manner of defining of correlation of the constituent elements of the legislative concept of "political advertising," which is a precondition for misclassification;
2. In the absence of a direct legal prohibition, labeling the materials published during the inter-election/non-pre-election period as political advertising and holding the broadcasters accountable.

On October 27, 2021, GNCC drew up an offense report on the violation of the rules of electoral/political advertising against "Mtavari Channel" LLC. The controversial video is about the media production produced by the Mtavari Channel with the hashtag *#FreedomforMisha #ForFreedom*, which depicts Mikheil Saakashvili as well as footage of the Rose Revolution and his presidency. At the end of one of the clips the TV channel urges viewers to join the October 14 rally.

The commission interpreted the concept of "political advertising" in such a way that any public or political campaign created around Mikheil Saakashvili and disseminated as a media product shall be defined as electoral advertising. In the situation where Mikheil Saakashvili has no legal connection to any electoral subject, and one of the main components of the concept of "political advertising" is the existence of a clear link between a media product and a specific subject who participates in elections, the concept of "political advertising" is arbitrarily expanded. If we suppose that the Commission correctly interpreted the concept of "political advertising", information disseminated through the media, around any person or object socially associated with a particular electoral entity, should be regarded as "political advertising". Such an approach unduly restricts freedom of expression and entails high risks of arbitrarily exercise of the Commission's powers.

A representative of GDI presented a reasoned legal position at the commission meeting as to why the broadcaster could not be declared as an offender, although the commission did not share this view without any detailed explanations. In this case, GDI went to the Tbilisi City Court with a "friend of the court" opinion (*amicus curiae*) documenting the views expressed at the Commission hearing, in which we argued that GNCC while assessing the controversial videos and drawing up an administrative offence report, had to present a more reasoned position. At the same time, the Commission did not

discuss why the video was not a "social advertisement" distributed by the broadcaster within the framework of editorial freedom, which, in turn, excluded the violation of the requirements of the "Election Code of Georgia". On the positive side, it should be noted that the Tbilisi City Court shared the position of the GDI as a "friend of the court" and denied the presence of elements of the concept of "political advertising" in the contentious videos. GNCC appealed the decision of the City Court to the Tbilisi Court of Appeals. The Tbilisi Court of Appeals disagreed with the decision of the court of the first instance and returned it to the city court for a new hearing. In the course of the second review, the Tbilisi City Court granted the claim of the Georgian National Communications Commission and held the broadcaster administratively accountable.

As for the response to political advertising during the inter-election/non-pre-election period, it should be noted that in 2019-2022 the Georgian National Communications Commission found 7 broadcasters to be offenders. Among them, on November 25, 2021, "Mtavari Channel" LLC was fined a hefty sum of 111,903.43 GEL.

Administrative proceedings initiated by GNCC against "Mtavari Channel" LLC on November 25, 2021, were related to three video clips broadcast on the TV company. Two videos are related to the imprisoned Mikheil Saakashvili, which show statements/photos of various state officials, and at the end, the word "kill" and calls: "Release Mikheil Saakashvili", "Say No to Murderers", "#FreedomforMisha". The "Mtavari Channel" also released a video produced by Shame Movement showing photos of members of the "Georgian Dream", and at the end of the video their photos are combined into an outline of the face of the President of the Russian Federation-Vladimir Putin and written on it * "Shame". 1]

As for the issue of the 111,903.43 GEL fine for the Commission's supposed violation of Georgian laws, GDI presented a "friend of the court" opinion that Georgian legislation does not prohibit political advertising in a non-pre-election period. Moreover, according to the law, the concept of political advertising is limited to the "pre-election/pre-referendum" period, and beyond this period there is no legal basis for qualifying any video as political advertising. The controversial videos were broadcasted on the TV channel in the inter-election period. In addition, the Commission qualified the videos as "political advertising", ignoring the basic elements of this concept and relying on the interpretation of international practice in an arbitrary way.

As for the unjustified practice of using the notion of "political advertising," it is worth mentioning the issue of recognizing Kavkasia TV LLC as an offender by the National Communications Commission of Georgia. Despite the unequivocal stipulation in the legislation that the Georgian Law on Advertising does not apply to "political advertising," the Commission found Kavkasia TV LLC to violate political advertising, which, in its opinion, was contrary to the Georgian Law on Advertising. The court of first instance upheld the commission's decision. GDI is currently representing Kavkasia TV LLC in the Court of Appeal.

GDI believes that both the Commission and the Administrative chamber of the Tbilisi City Court have gone beyond the role of a norm enforcer and have taken on the role of the Legislator. Similarly,

ignoring the will of the Legislator and taking repressive decisions is a dangerous trend for the media environment and the scope of freedom of speech in general.

2.2 The power of supervision on audiovisual material having a harmful influence over juveniles

Based on the legislative changes that came into force on September 1, 2020, the broadcaster was obliged to use the broadcasting program classification criteria to determine the categories of these programs, as well as to place these programs in the broadcasting network by the rules. GNCC was given the authority to control the dissemination of information that threatens a child.

Since the legislative changes went into effect, the Commission has considered eight cases of adverse impact on juveniles on such grounds as broadcasting a program that contains: 1) close-up scenes of violence; 2) a violent or dangerous activity that is easy for a juvenile to repeat; 3) a graphic depiction of the sexual act; 4) a verbal description of the sexual act; 5) abusive language; 6) Information that positively evaluates a criminal act or idealizes an offender. On the other grounds, the commission has not yet taken a decision and, therefore, there is no standard yet.

An analysis of the Commission's rulings on the grounds already considered also shows that the regulator has difficulty setting specific standards for general, and in some cases vague, statutory concepts. Therefore, it usually evaluates a particular disputable TV product and decides, without substantiation, whether the disputable content falls under the definitions established by the law. For example, the decisions do not emphasize or explain why a particular TV product belonged to the concepts prohibited by law. It generally does not assess what constitutes, for example, a "graphic depiction of a sexual scene," "a close-up of a violent scene," or "an act of violence or danger easily imitated by a juvenile. The Commission does not adequately substantiate why it is unacceptable to release a particular material at a prohibited time when there is a legally justifiable high public interest. In several cases, the Commission has interpreted the provisions of the law expansively, although the decision does not provide a justification or explanation of the basis for such clarification. In addition to the problem of law transparency, this erroneous approach of the Commission prevents broadcasters from understanding exactly what types of products are restricted by the law and pose a threat of a nettling effect to their freedom of expression.

In addition, the Commission does not take into account the general constitutional and conventional standards for the protection of freedom of expression, or whether a particular program/part of a program has artistic, cognitive, cultural or other value when evaluating programs. This is indicated by the category of programs the broadcasting of which has constituted the basis of the broadcasters' responsibility. For example 1. A artistic film -, Braveheart” - according to the Commission, contains scenes of violence, murder, and sexual nudity"; 2. The TV series "LOST" contains scenes of violence and murder; 3. The TV series "Criminal Minds" contains scenes of violence, murder, and torture.

The films/series named have cognitive, artistic, and historical value, but based on an expansive, arbitrary interpretation of the norms, the Commission considers them to be programs that have a deleterious effect on juveniles.

GDI thoroughly examined all eight cases and published an analytical [document](#) on the practices of the National Communications Commission in the context of preventing adverse effects on juveniles. It should be noted that in several cases the Commission correctly qualified the disseminated program as hurting juveniles (e.g., [Alt-Info's statements](#) justifying violence against children), but the lack of substantiation and general standards underlies all decisions of the Commission and has a netting effect for the freedom of expression in the media.

2.3 Inadequate exercise by the Commission of its discretionary powers in assessing war crimes from a positive point of view and idealizing the criminal activities

On February 24, 2022, in parallel with the beginning of the war of the Russian Federation against Ukraine, Alt-Info LLC made statements that morally and politically justified/positively assessed Russia's violations of Ukraine's sovereignty and its war crimes against civilians. According to Georgian legislation and the practice of the Georgian National Communications Commission, programs that justify, positively assess or idealize criminal activities have a deleterious effect on juveniles. The broadcaster is obliged not to air such programs from at least 6 a.m. to 12 p.m. In case of dissemination, the Georgian National Communications Commission is obliged to hold the broadcaster legally responsible.

GDI chairman Eduard Marikashvili, who appealed to the Georgian National Communications Commission, demanded that Alt-Info LLC be found responsible for violating the regulations. The disputable statements positively assessed/justified the crimes under Articles 404-413 of the Criminal Code of Georgia. Based on legally groundless arguments, GNCC didn't accept Eduard Marikashvili's suit for consideration on its merits. According to the Commission, the statements made by Alt-Info are not an only justification of the crime but also propaganda of war. According to the law, the issue of prohibition of war propaganda should be decided by Alt-Info itself, within the framework of self-regulation, not by the Commission. The legal reasoning developed by the Commission, in this case, contradicts both the requirements of the law, As well as the rules of the proper exercise of discretion and the Commission's prior practice. The Commission should have separately assessed each challenged statement. In addition, the designation of specific statements as "propaganda for war" does not exclude the qualification of the same or other statements as a positive assessment/justification of a crime, especially if the Commission agrees with the applicant that the challenged statements positively assess crimes. The Commission's decision has already been appealed to the Tbilisi City Court. As part of the suit, Eduard Marikashvili is demanding to declare null and void an individual administrative act issued by the Commission and recognition of Alt-Info LLC as an offender.

2.4 Regulation of the obscene content

2.4.1 Arbitrary appropriation of powers of Obscenity Regulation.

The attempts by the Georgian National Communications Commission to arbitrarily appropriate to itself the mandate to regulate obscenity is particularly outrageous. Although obscenity control falls under the sphere of self-regulation of broadcasters, in the last couple of years the regulatory commission itself has become active in regulating programs with obscene content.

Arbitrary assignment of powers to regulate obscenity has been repeatedly criticized by non-governmental organizations. For instance, the decision against “Mtavari Channel” LLC. was sharply criticized by member organizations of the Media Advocacy Coalition, which pointed out that the Commission has [no legal authority](#) to control the content of a broadcaster and to consider programs as "obscene".

In this regard, the Commission in regulating obscene programs refers to the November 10, 2009 decision of the Constitutional Court of Georgia by which the court annulled the words of Clause 2 of Article 14 of Law of Georgia on Broadcasting, except the Articles 52, 54, B of the Article 56...which refers to the words of Clause 4 of Article 56, "...Broadcasting of programmes or advertisements abusing a citizen's and a person's dignity and his/her fundamental rights and that contain obscenity". It should be noted that according to the annulled record, a person could not go to court if a TV company broadcasted an obscene program.

The National Communication Commission believes that based on this decision, the Constitutional Court empowered the Commission to assess the content of programmes (Whether it contains obscenity that violates the rights or dignity of a person). It is the interpretations of the Constitutional Court that make the introduction of a content regulation impermissible. Specifically, [in one of its decisions](#), the court specified that "restricting the freedom of speech through the introduction of content regulation is one of the harshest forms of interference with that right. The mandatory definition of what content of opinion/information is impermissible to disseminate implies the imposition of a kind of 'informational filter' on the minds of individuals. “

In addition, it is noteworthy that the Constitutional Court in its ruling of November 10, 2009, found the ban on appeal to the Court to be unconstitutional and did not indicate either directly or indirectly that the same powers should be granted to a third person or an administrative body, which on its initiative, without any applicant, decides for itself whether a TV program violates someone's interests and contains [obscene language](#). Specifically, in this [decision](#), the Constitutional Court concludes that "the ban on applying to the court for the restoration of the violated rights by the broadcaster, including the damages caused by the violation, violates the first paragraph of Article 42 of the Georgian Constitution (the right to a fair trial).”

Thus, it becomes obvious that the Constitutional Court has declared unconstitutional the provision prohibiting a person whose rights have been violated by an obscene broadcast from being able to go to court to seek a remedy. The purpose of this decision, however, was not to give the National Communications Commission the authority to regulate obscene programs..

In this regard, it is clear that the National Communications Commission arbitrarily appropriated this mandate to itself and tries to justify its attempt of content regulation by referring to the decision of the Constitutional Court.

Nevertheless, the National Communications Commission of Georgia (GNCC) continues to regulate media content and declare broadcasters offenders in obscenity, which contradicts both the law and the standards set by the Constitutional Court of Georgia, itself, regarding media freedom.

2.4.2 Legal assessment of GNCC decisions on "obscene" TV programmes.

In addition to the fact that the Communications Commission has no legal authority to regulate obscenity, while making the decisions on whether a broadcaster is to be found an offender or not, the Commission relies on erroneous and manipulative interpretations of international practice.

GDI provided a legal analysis of the Georgia National Communications Commission's January 28, 2021 decision, by which the Commission found “Mtavari Channel” LLC to be an offender for one of the coverages aired by the TV channel. According to the Commission, the coverage contained obscene language and thus contradicted the requirements of the Georgian Law on Broadcasting.

According to GDI, the controversial coverage contained political satire; and the legal assessment of the decision of the Communications Commission regarding the “Mtavari Channel” made it clear that the Commission based its decision on subjective and manipulative interpretations referring to decisions from international practice, which makes it clear that the Commission seeks to limit one of the basic rights of a democratic and pluralistic society - freedom of expression and opinion. In essence, it is the objective assessment of existing norms at the international level that gives grounds to recognize the Commission's decision as illegal, which aims at controlling the content of the broadcaster and is in complete contradiction not only to constitutional norms but also to the [practices](#) established in other countries.

It is noteworthy that the Commission issued two more decisions and deemed the television company Alt-Info to have violated the law by broadcasting obscenity (on [April 15, 2021](#), and [July 29, 2021](#)). Notably, in these two cases, while superficially weighing the programs covered, the Commission used the standards and reasoning outlined in the decision against “Mtavari Channel” LLC. Given this, there is a risk that the National Communications Commission will continue to make superficially weighted and unsubstantiated decisions against broadcasters, thereby jeopardizing the constitutionally guaranteed freedom of media.

Given all this, the practice of the Georgian National Communications Commission, in addition to formally contradicting Georgian legislation and constitutional norms, also aims to regulate the content of broadcasters and threaten the freedom of media.

3. Assaults on journalists and other representatives of media and facts of unlawful interference with the journalists' professional activities

3.1. Facts of physical assaults on journalists

During the reporting period, numerous cases of attacks on journalists and media representatives were identified. Remarkably, aggression and physical or verbal attacks on journalists are particularly encouraged by discrediting and inflammatory statements made by government officials to media representatives.

The events of July 5-6, when at least 53 members of the media who came to cover a protest march against the March of Dignity were the victims of a large-scale attack by violent groups, are particularly alarming in this respect. [From GDI's point of view](#), "on July 5-6, the government violated the obligation to protect media representatives from the degrading treatment and they were unable to or unwilling to ensure performance of professional activities of the journalists in a safe environment, thereby violating their freedom of expression as well.". In addition, [according to the Public Defender \(Ombudsman\) of Georgia](#), the law enforcement agencies did not take effective preventive and responsive countermeasures to prevent violent actions. In particular, they did not mobilize the appropriate number of law-enforcement units on Rustaveli Avenue.

It is noteworthy that among the media representatives injured on July 5-6, there was a cameraman - Alexander Lashkarava of the "TV Pirveli" channel, [who died](#) a few days later. It is worth mentioning that UNESCO [included him in the list](#) of the murdered journalists. On the contrary, according to an expert opinion of Levan Samkharauli National Forensics Bureau, [the cause of Lashkarava's death](#) was acute cardiovascular and respiratory failure, which developed as a result of drug intoxication. As a result, those accused of violence against Lekso Lashkarava [were sentenced](#) by the Tbilisi City Court to 5 years in prison.

Among the journalists involved in the case were a journalist or Radio Liberty - Tornike Mandaria and cameraman David Koridze, who, together with other offenders, for homophobic motives, on July 5, 2021, [were attacked](#), beat and severely injured by already convicted Giorgi Kakhiani, while they were leaving the building of UN in Tbilisi in front of the Round Garden with the-then Director of Tbilisi Pride - George Tabagari. GDI is defending the interests of Tornike Mandaria.

Giorgi Kakhiani was charged with unlawful interference with the professional activities of a journalist (article 154 of the Criminal Code of Georgia), Persecution (article 156) Participation in group violence (article 225 paragraph 2). According to the decision of April 4, 2022, Giorgi Kakhiani [was found guilty of](#) Violence against two or more persons (article 126, paragraph 11, subparagraph "C"), of Persecution committed with violence or threat of violence which has resulted in considerable damage, (article 156, part 2, subparagraphs "A" and "C") as well as and of unlawful interference the journalist's professional activities committed using the threat of violence or official position (Article 156, Paragraph 2) sentenced to 1 year and 3 months in prison.

Accordingly, the judge acquitted Giorgi Kakhiani of Participation in group violence and found him guilty of Violence against two or more persons.

[GDI does not agree](#) with the court's decision when the latter changed the charge of Participation in group violence to Violence against two or more persons. Such an approach ignores the large-scale Homophobic/Discriminatory Organized Violence against journalists and civic activists which took place on July 5, 2022. Also, it is worth pointing out that several pieces of evidence prove commission of Participation in group violence. In addition, a measure of the sentence imposed raises further questions, which, according to the law, should be stricter for a homophobic (hatred) motive than for a crime committed without such a motive.

Thus, GDI believes that the sentence imposed does not correspond to the severity of the crime committed. As a result, GDI called on the Office of the Prosecutor-General of Georgia to appeal the decision of the court of the first instance in the court of appeals.

In addition to the large-scale attacks of July 5-6, media representatives (especially those who are critical) were subjected to physical or verbal attacks on several other occasions.

[The attack on TV Formula journalist Vakho Sanaia and his family](#) on February 25, 2021, is worth mentioning. We think that the attack on the journalist and his family is a result of the ruling party's aggressive attitude towards the critical media, which is caused by statements made by members of the Georgian Dream about representatives of critical media and inadequate response to attacks on journalists.

[The Public Defender of Georgia also made several statements](#) about this, calling on the State to respond adequately to the crime. Nevertheless, the court sentenced all three defendants to a minimum of six months in prison.

GDI acting on behalf of the victim Vakho Sanaia [asked the Prosecutor's Office of Georgia](#) to appeal the verdict of the Tbilisi City Court because it considered the decision unlawful and unsubstantiated. The Prosecutor's Office appealed the verdict to the Court of Appeal and the Public Defender of Georgia submitted a friend-of-the-court opinion. Unfortunately, the Tbilisi Court of Appeals rejected the appeal of the Prosecutor's Office and upheld the decision of the first instance.

Attacks on journalists and unlawful interference with their work also continue in 2022. For example, in the first half of 2022, there were [attacks on the crew of the cameramen of Formula TV](#) and a journalist and [cameraman of the Mtavari Channel LLC](#). An [attack on journalists by the police](#), which took place on February 18, 2022, following the altercations at Kaspi Municipal Council (The Sakrebulo), is also noteworthy. The police forcibly removed the representatives of the opposition party and civic activists from the Council hall and as a result a journalist of Formula TV was injured by the police officers. . In addition, the [video equipment of the "Mtavari Channel" was also damaged](#). The [case was investigated by the State Inspector's Service](#) -an independent body operating at that time - on the fact of exceeding the official powers of the police officers and within the framework of these criminal investigations the GDI was defending the rights of the journalist of the "Mtavari Channel."

A manifestation of the ruling party's aggressive attitude towards critically-minded media was on September 15, 2021, when members of the Georgian Dream attacked the crew of cameramen of the Mtavari Channel.

According to the "Mtavari Channel", a cameraman Levan Ablotia and a journalist Beka Qorshia were preparing a television report about Zaza Guliashvili - a candidate for mayor of Kareli Municipality when the [cameraman was thrown from the second-floor balcony](#) of the Kareli office of the ruling party - Georgian Dream. According to journalist Beka Qorshia, members of the ruling party aggressively met the journalist and cameraman upon arrival. However, this version is refuted by representatives of the "Georgian Dream". [They claim that](#) the cameraman fell from the staircase railing and not from the balcony, but they confirm the verbal altercation between the cameraman and the staff. An investigation under Article 124 of the Criminal Code (Grave or less grave bodily injury through negligence) [has been opened](#).

Representatives of the critical media were also victims of numerous verbal and physical attacks by the clergy. On May 4, 2021, while working on news coverage in David Gareji, [clergymen verbally and physically assaulted a journalist of the Mtavari Channel](#), Ninutsa Kekelia and a cameraman, Irakli Kvaratskhelia. On May 8, 2021, a video was released showing another journalist of Mtavari Channel, Irakli Vachiberadze, becoming a victim of abuse and was physically and verbally insulted by the clergyman of Vani and Baghdad Anton Bulukhia while carrying out professional responsibilities. [The Georgian Charter of Journalistic Ethics responded to the attacks](#) of clergymen on journalists with a statement, explaining that "Leaving such facts without proper response by the law enforcement agencies, encourages such kind of violence and unlawful interference with a journalist's professional activity and this situation, itself, has a deleterious influence on Media environment in the country."

3.2. Persecution of journalists of the Georgian Public Broadcaster, probably, because of their views and opinions

An order issued by the Director-General of Public Broadcaster of Georgia – Tinatin Berdzenishvili, on August 9, 2021, firing a TV host of “Weekly Interview” – Irakli Absandze, can be regarded as an attempt of interference with a journalist’s professional activity. It is noteworthy that Irakli Absandze often made critical statements about the events taking place in the country. He also was arrested by the police during a protest taking place in front of the ruling party office on July 12, 2021. At the time of arrest [his arm has broken](#).

[The official reason](#) for Irakli Absandze's dismissal from the Public Broadcaster was gross/repeated violation of the duty imposed by his contract and/or internal regulations of the broadcaster. However, the fact of Irakli Absandze's dismissal from the Public Broadcaster of Georgia was attributed to his critical views and was designated as persecution of a journalist for his professional activities [by the Coalition for Media Advocacy](#). Absandze's dismissal also coincided with the demand for his firing by the aggressive groups.

Alt-Info's statements coincided suspiciously with the termination of the journalistic activities of another anchor of the Public Broadcaster, Imeda Darsalia. The TV program "New Week" hosted by Imedi Darsalia was terminated by the Public Broadcaster due to reorganization. [According to the host](#), a few hours after one of the coverages was aired, the Alt-Info team threatened, and exactly one month later the broadcaster closed the program. In this regard, the public broadcaster clarified that none of the programs on the channel had been shut down, and [the updated format of the "New Week" would be aired](#). Nevertheless, it is noteworthy that on April 29, 2022, the broadcaster fired Imeda Darsalia, host of New Week, and journalists Sofio Zedelashvili and Tamta Janadze, [the reason of which](#), according to the broadcaster, was dissemination of false and unsubstantiated allegations. The journalists point to an attempt of censorship and [commence legal proceedings](#) against the public broadcaster.

The increasing number of physical and verbal attacks on journalists once again demonstrated that members of the media are not allowed to work in a free and safe environment. The negative public attitude towards journalists and attempted attacks are encouraged by the actions or inactions of the government. [According to the report of the Public Defender of Georgia](#), "an increase in the number of criminal acts committed against journalists and other representatives of media is directly related to the inappropriate response of the investigative bodies in some cases, which creates the atmosphere of impunity in the country." Thus, on the one hand, representatives of the authorities make explicit and openly discrediting statements against critical media and, on the other hand, ineffective response to violence by the relevant agencies hampers the creation of a safe and violence-free environment for journalists.

4. Encroachment upon journalists' professional and private life – Alleged unlawful eavesdropping/surveillance

One of the examples of interference with journalists' professional activities is cases of alleged unlawful wiretapping by the State Security Service of Georgia.

On September 13, 2021, [information](#) was released about alleged illicit surveillance of clergymen, politicians, lawyers, [members of the foreign diplomatic missions](#), and others. Notably, files reflecting the content of [the private communications of various journalists](#) were released. [The journalists and others featured in the leaked files confirmed the authenticity of the conversations](#).

The Georgian Prosecutor's Office has launched an investigation into the violation of the secrecy of private communication, and the interests of some of the journalists, who were illegally wiretapped by the State Security Service of Georgia, are being represented by GDI.

Although the journalists were directly subjected to damage as a result of the crime, in particular, their right to privacy was violated, the Prosecutor's Office [did not recognize them as victims](#), despite the GDI's appeal. The GDI also appealed to the court on granting the victim status to journalists but the court ruled to dismiss the appeal. It is also noteworthy that the State Inspector's Service -an independent body operating at that time - [actually confirmed](#) that the journalists were not under covert

surveillance/wiretapping as part of the investigation under the inspection of this Service, which may be an additional argument in favor of the unlawfulness of the covert eavesdropping.

The alleged illegal interception of journalists' private communications could jeopardize the free conduct of their activities.

If illegal surveillance is confirmed, on the one hand, the standards of privacy protection of sources will be jeopardized and, on the other hand, the process of providing important information by the so-called whistleblowers to the media will be hindered, as they may regard that their identities will be revealed to the State Security Service of Georgia if they contact the media. Such a situation significantly impedes media freedom and journalistic activities.

GDI continues to provide legal assistance to aggrieved journalists both at the national level and before the European Court of Human Rights.

5. Disputes brought before the court on grounds of defamation

Attempts to restrict freedom of expression through the judiciary by both private and public persons against broadcasters and media representatives are frequent. Critical statements by media outlets repeatedly triggered legal proceedings, especially at the initiative of government officials.

GDI took an interest in the increasing frequency of defamation suits against critical media outlets and found that their number has [increased significantly](#). It is also noteworthy that the majority of lawsuits were filed by incumbent high-ranking officials/ or persons allegedly affiliated with the ruling party - Georgian Dream, which raises a reasonable doubt that the lawsuits are aimed at restricting media freedom.

Here are some statistics on cases against critical media on grounds of defamation:

In the last 2 years, at least 28 defamation suits have been filed in the courts against critical media:

(4) TV Formula

(9) TV Pirveli

(15) "Mtavari Arkhi"

The majority of the lawsuits were filed by high-ranking officials/ or persons allegedly affiliated with the ruling party - Georgian Dream. The claimants are:

(11) Mayors

(3) Members of Parliament

(3) Ministers/ Heads of State Agencies

(2) Police Officers

(7) Persons allegedly affiliated with “Georgian Dream”

22 of them demand compensation of moral damages:

(11) Mayors (separately) 55 555 GEL

(5) individuals – 5 000 – 150 000 GEL

(6) individuals – 1 GEL

Statistics show that abuses of the legal action mechanism and the so-called SLAPP claims are on the rise in Georgia. Such lawsuits are punitive measures for critical media outlets, as they aim to silence journalists/media and illegally restrict freedom of speech and expression, resulting in media censorship through litigation.

It is noteworthy that GDI was asked for legal assistance by several media representatives against which legal proceedings were initiated for defamation. As a result of research and analysis of legislation and local and international practice, the organization ensured the preparation of legal documents for the respondent media organizations and their representation in court. We believe that court decisions in such cases are particularly important for protecting media freedom, especially in cases involving lawsuits against media outlets that are critical of the State authorities. It is worth noting some of the defamation cases brought by the State and government agencies officials in which GDI provided legal assistance to media organizations:

5.1 Grigol Liluashvili’s claim against Media

A particular threat to media freedom is a decision made by the Tbilisi City Court on a claim of the Head of the State Security Service – Grigol Liluashvili against the TV companies – “Formula TV” and “Mtavari Channel.”

On April 29, 2022, Judge Nana Shamatava of the Collegium on Civil Cases of the Tbilisi City Court satisfied Grigol Liluashvili's lawsuit and, accordingly, established the fact of defamation against him.

The case concerns the lawsuit of the head of the State Security Service, Grigol Liluashvili. On TV Formula and on Mtavari Arkhi (TV Mtavari), statements were made about the criminal schemes of the so-called “call centers,” and it was discussed that the State Security Service and its head, Mr. Liluashvili may have been linked to them. He disputed these statements.

Representatives of the respondent media outlets pointed out that in such cases the court should pay special attention to the function of the media - to disseminate information of public interest. The

purpose of the statements aired is also important - to reveal the alleged criminal acts of the relevant government agencies and to urge the competent bodies to launch an investigation. Thus, it was not directed at any particular person. Moreover, the statements made by the journalists constituted conclusions based on sufficient factual circumstances, which makes civil liability inadmissible.

Regrettably, the court did not consider the arguments of the media representatives, and the judge, agreeing with the plaintiff, noted that the statements made by the journalist had damaged the plaintiff's honor, dignity, and business reputation.

GDI represented the interests of Formula Ltd before the court. It should be noted that, several major issues were identified during the litigation:

- The judge took a special interest in the claim of the head of the SSSG and, in contrast to the practice of considering cases of a similar category, reviewed the case unusually quickly, in a short time, two and a half months after the submission of the claim.
- The judge dismissed almost all the motions of the respondent TV stations and an MP, including petitions regarding the termination of the case and attach evidence to the file.
- The court did not consider that we're not presented with any preconditions provided by the Georgian legislation that would allow to interpret the disputed statement as slanderous. It cannot be proven that the plaintiff suffered any damages, and the plaintiff also could not prove that the defendants acted with obvious and gross negligence;
- The plaintiff based his position on a manipulative interpretation of the decisions of the European Court of Human Rights and national courts, which was an attempt to mislead the court.
- The court did not consider the threats posed by such a decision. Among them, the court failed to notice that the lawsuit was brought forward by the head of the State Secret Service, who has an elevated duty to tolerate nuisances such as critical opinions aired by the media.

GDI continues legal proceedings on this case before the superior courts.

5.2 Nino Tsilosani's claim against Shota Dighmelashvili

Nino Tsilosani, a member of the Georgian Parliament, also filed a lawsuit on the grounds of defamation to protect her honor and dignity. The plaintiff disputed the statements made by civil rights activist Shota Dighmelashvili. The activist said on the live TV program "Shame" that Nino Tsilosani was the protector - the so-called "Krisha" (Russian word that means "roof") - of "Sano" LLC, . Nino Tsilosani

stated in the suit that the dissemination of such information offended her honor and dignity, so she demanded retraction of these statements.

On April 29, 2022, Judge Zaal Maruashvili of the Collegium of Civil Cases of Tbilisi City Court satisfied the claim of Nino Tsilosani and, accordingly, established the fact of defamation against her.

GDI represented the interests of Shota Digmelashvili before the court. The respondent drew attention to the fact that at the time of making statements he acted as a journalist and disclosed information available from open, official sources about the Georgian Dream MP's connection with the Sano LLC, which, according to the State Audit Office, received approximately GEL 2 million unjustifiable additional income from the budget allocated to the homeless in Kutaisi. The defendant explained that the findings he voiced relied solely on information available in public sources. In addition, He emphasized the fact that Nino Tsilosani is a high-ranking government official with a greater obligation to tolerate nuisances.

Regrettably, the court ignored the European Court and the national court case law. It did not consider the dangers posed by adopting such a punitive course. The judge agreed with the plaintiff, noting that for an objective observer, the disputed statement would be perceived as a statement of fact, and hence, defamed Tsilosani's honor and dignity.

The decisions of the Tbilisi City Court in the cases of Grigol Liluashvili and Nino Tsilosani set a particularly dangerous precedent, as there is an expectation that freedom of speech and expression shall be subject to judicial review.

GDI continues legal proceedings on this case before the superior courts.

5.3 Claims filed against Media by the representatives of the Ministry of Internal Affairs

The attempts of the Ministry of Internal Affairs to limit the freedom of critically-minded media often occur. In this regard, the lawsuit filed by Genri Gvindzhilia, deputy head of the 8th Directorate of Police of the Main Administration for Vake-Saburtalo of Tbilisi Police Department, against FormulaTV is quite noteworthy.

The plaintiff claims that the TV program, "Saturday's Formula", aired on Formula TV contained defamatory information about him. The controversial television profile, reporting on the so-called "Case of Souteneurs", reveals that a car of the Skoda marque, which accompanied the prostitute, the service of whom was asked during the curfew within the framework of investigative television coverage, was seen by the lens of the camera of Formula TV near the building Vake-Saburtalo police station. According to the controversial coverage, this Skoda is driven by a high-ranking official of the Interior Ministry, plaintiff Genry Ghvindzhilia.

Although, again, the main focus of the story was not directly on the plaintiff, but on the car that had appeared in the so-called "Case of Souteneurs" and was of great public interest, Genri Ghingilia believes that this coverage his honor and dignity .

We believe that the court should take into account the dangers that may arise if the lawsuit is satisfied. It is noteworthy that Genri Ghvindzhilia is a high-ranking official of Ministry of Internal Affairs. Accordingly, there are reasons to believe that the suit is a kind of indirect appeal by the Ministry of Internal Affairs to the court to restrict media freedom and prevent media criticism of the Ministry and its personnel. This is indicated by a number of statements published on the official website of the MIA, which the MIA published after all three coverages of the "Saturday Formula" (see [the statement of 23.01.2021](#); [the statement of 30.01.2021](#); the [statement of March 13, 2021](#)).

In all three statements the Ministry of Internal Affairs openly expressed its negative attitude towards "Formula TV", and in its statement of March 13, it directly said that "the Ministry of Internal Affairs will not leave without response to this false information, repeatedly spread by "Formula TV".

According to paragraph 4 of article 6 of the Law of Georgia "On Freedom of Speech and Expression," "Litigation on defamation may not concern the protection of personal non-property rights of a governmental or administrative body". In this case, indeed, the Ministry of Internal Affairs does not appeal directly to the court, but indirectly, using its own apparatus, tries to protect the "reputation" of the Ministry, itself, by attacking critical media and making freedom of speech and expression the target of the judiciary. Thus, it is important for the court to take these circumstances into account, not to satisfy the claim and not to allow unreasonable restrictions on media freedom.

In addition, another representative of the Ministry of Internal Affairs, Inspector of the Patrol Police of the City of Poti - Gela Kvashilava, filed a lawsuit against TV Pirveli. The disputable television coverage concerns the alleged involvement of Gela Kvashilava, an employee of the Ministry of Internal Affairs of Georgia, in a criminal offense. According to the coverage, the plaintiff was driving a car loaded with drugs and ensuring their safe transportation, which was left without a relevant response from the Ministry of Internal Affairs.

It is remarkable that the Tbilisi City Court satisfied Gela Kvashilava's claim. In making its decision, it relied on the case law of the Supreme Court of Georgia, which, in its turn, sets a standard for resting the burden of proof in cases related to journalist's statements, with a manipulative reference to the ECHR case law. GDI is inquired into the decision of the Tbilisi City Court and considers it unsubstantiated and the arguments of the European Court of Human Rights are incorrectly cited in the decision of Tbilisi City Court. In addition to this, the above-mentioned decision ignores the statutory provisions of Georgia's Law on Freedom of Speech and Expression regarding the resting of the burden of proof. Nevertheless, the Tbilisi Court of Appeals upheld the decision of the inferior court.

The increased activity of representatives of the Ministry of Internal Affairs and the initiation of lawsuits against media representatives is particularly dangerous and points to the efforts of government authorities to suppress critical opinion in society disseminated by the critical media. On the other hand, the practice of courts of general jurisdiction deals with resting the burden of proof and, in fact, prevents the media from fulfilling their duty to inform the public about important information about the country's authorities, is also worrying.

6. Changes to legislation and limits of power of Georgian National Communications Commission

6.1. Changes to legislation motivated by the protection of juveniles from harmful influence

As mentioned above, parallel to the amendments to the Code on the Rights of the Child, new provisions in the Law of Georgia on Broadcasting went into force in September 2020 aiming at protecting juveniles from harmful influences. According to the legislative changes, broadcasters were obliged to comply with the rules of sorting information and age labeling. New provisions also established content criteria by which the information disseminated on the air would be qualified as having a "harmful effect on juveniles". And the power to monitor compliance with these requirements was given directly to the National Communications Commission.

It is significant that a different procedure applies for violations of the rules on the prevention of harmful influence on juveniles, in particular, if the broadcaster violates the Georgian legislation or fails to comply with the decision of the Commission, the Commission must review the issue. If the violation is confirmed, as a general rule, the Commission has the right to issue a written warning to the broadcaster, but if the issue concerns the violation of norms of prevention of harmful influence on juveniles, the rule of written warning does not apply and in this case the Commission is obliged to impose fine on the broadcaster.

The report has already examined the negative trends (p. 6) that have followed the application of the above rules in practice by the National Communications Commission. The formation of these trends is largely due to the ambiguity of the rules. The GDI has submitted a constitutional complaint to declare these norms unconstitutional on the grounds that they do not meet the requirements of the law establishing norms of responsibility, and the legal scope protected by freedom of speech is unduly restricted. The subjects of legal norms cannot adequately foresee the relevance of their actions in the context of preventing adverse effects on juveniles and thus detrimentally affects the freedom of expression of broadcasters. At the consideration of suit on its merits by the Constitutional Court, the GDI representatives referred to international legal practice, according to which broadcasters operating in a number of countries are legally allowed to apply to the regulatory body for communications as to whether a particular program belongs to a category prohibited by law. This procedure ensures the implementation of the principle of the Legal State and establishes an optimal balance between the expression of the opinion of broadcasters and the supreme interests of juveniles. According to the alternative provision, the Commission should establish in advance methodological guidelines on matters within its competence, with which the Commission will clarify the rules of application of a particular legal norm. Establishment of clear and unambiguous legal rules by the Commission, in parallel with imposition of administrative liability on broadcasters, contradicts the principle of legal security and grossly violates constitutional/conventional norms. At the hearing when considering the suit on its merits, a representative of the National Communications Commission of Georgia stated that

the Commission, as a norm enforcer, is limited to legislative regulation and has no leverage to respond to problems in alternative forms.

Thus, on the one hand, the uncertainty of legislative norms and the lack of systematic mechanisms to clarify them and the trends expressed by the National Communications Commission of Georgia in the regulatory process, on the other hand, create reasonable grounds for the unconstitutionality of the norm that came into force on September 1, 2020.

6.2. Prohibition of pre-election advertising displaying the negative attitudes

On October 13, 2021, MPs representing the political party Georgian Dream - Democratic Georgia passed a bill, which aims to ban dissemination of agitational and advertising materials forming negative attitudes towards a candidate during an election campaign. Particularly, according to the sponsors' initiative the Law of Georgia on Broadcasting and the Election Code of Georgia shall be amended to prohibit the distribution of such pre-election advertising or agitational materials as "aiming at forming a negative attitude towards an election subject/candidate." At the same time, distribution of pre-election advertising and agitational materials is allowed only "by a political party or an electoral subject or by order of a political party or an electoral subject. Violation of these obligations will result in a fine on the broadcaster, the agitator and the advertising account, as well as an owner of the site of placing the agitational material. The bill also stipulates that "the mentioned pre-election advertising distributed by a political party/electoral subject or by order of a political party/electoral subject shall not contain the image, name, serial number and symbols of another political party/election subject".

GDI compiled an analytical document regarding the aforementioned legislative amendments and sent remarks to the Parliament of Georgia. GDI believes that making this bill into law will unjustifiably violate freedom of speech protected by Article 17 of the Georgian Constitution. Prohibiting the dissemination of "negative attitudes" in any form in public or political discourse, unless it poses a substantial, obvious and immediate threat of violation of public order, is not defamation (in the legal sense) and does not imply disclosure of the private life of a particular person or the State secrets, is an unjustifiable content regulation of freedom of expression. The initiated legislative changes are not intended to accomplish a lawful purpose worthy of protection, nor are they a useful means to accomplish such a purpose. Both the legislative proposal and the bill ignore the practice of the Constitutional Court of Georgia with respect to the protected area of free speech and the requirements about the certainty of law.

The ban on the airing via television of political advertising reflecting negative attitudes toward an electoral subject/candidate of electoral subject, initiated as part of the draft law, is a form of content regulation of political expression. It is a growing threat to media freedom and an open conduct of democratic processes. The distribution of scandalous, sarcastic, ironic or irritating campaign materials to a group of opposing political forces in any form aimed at moral criticism of a subject is guaranteed freedom of speech, regardless of the merits of such criticism. Leaders of political processes must bear sole political responsibility for evaluative statements they make in any form (even with agitational

material). Imposing legal liability only for the fact that specific information "offends, shocks and disturbs any group of the State or society" is contrary to the Constitution of Georgia.

7. Judiciary – An Instrument for persecution of Media Managers

Systematically biased judiciary against media leaders who criticize the government has posed serious problems and challenges to the institutional independence of media organizations and, more generally, to the degree of protection of freedom of expression.

In this regard, [Tbilisi City Court decision of May 16, 2022](#), based on which Nika Gvaramia, head of one of the most influential media outlets critical of the government, the Main Channel, was sentenced to 3 years and 6 months in prison, is alarming. Nika Gvaramia was convicted in two episodes: the first, the so-called "an episode of 2015" refers to the prosecutor's charge that Gvaramia, together with the company's financial director, embezzled GEL 6,763,509, for which he was fined with GEL 50,000, and the second, the so-called "an episode of car", the prosecutors argued that Nika Gvaramia and his family used a car worth EUR 76,000 (GEL 232,201), which was registered to Proesco Media Ltd. in exchange for the use of advertising time on Rustavi 2 (broadcasting company). In this episode Nika Gvaramia was sentenced to 3 years and 6 months in prison. The more severe punishment (imprisonment) absorbed the less severe punishment (fine), and finally Gvaramia was sentenced to 3 years and 6 months in prison as a basic form and measure of punishment.

The launching of repressive mechanisms of the judiciary against Nika Gvaramia provoked a sharp reaction from [local](#) and [international organizations](#). [According to the Public Defender of Georgia](#), who presented the opinion of an "amicus curiae" on the case, there were no grounds for bringing Nika Gvaramia to hold not only criminal but also corporate legal liability.

Regarding the above-mentioned case the [US embassy in Tbilisi made the following statement](#): Today's ruling, in the cases of Gvaramia, Iashvili, and Damenia, calls into question Georgia's commitment to rule of law, and further demonstrates the fundamental importance of having an independent, impartial judiciary in Georgia. From its inception, this case has raised questions, including about the timing and the charges. The disturbing pattern of selective investigations and prosecutions targeting those in opposition to the current government undermines the public's confidence in the police, prosecution, the courts, and the government itself. Particularly at this time, when Georgia has an unprecedented opportunity to advance its Euro-Atlantic integration, even the perception of politicized prosecution is detrimental. It is the United States' firm position that a healthy democracy depends on ensuring judicial independence and protecting media freedom. That is why we have repeatedly called for the government to undertake comprehensive reforms to advance these fundamental democratic principles.

[The statement made by Amnesty International](#) deserves special attention: "The sentencing of Nika Gvaramia is a blatant act of politically motivated prosecution in retaliation of his dissenting views and criticism of the authorities. He now faces years behind bars as the government ramps up efforts to silence dissenting voices. Nika Gvaramia must be immediately released."

Hence, the case of Nika Gvaramia is a clear example of the politically motivated prosecution and justice in Georgia. The case makes it evident, how the state authorities fight against critical opinion with the help of judiciary and are not afraid to imprison manager and founder of the critical media to stay in power.

It is worth noting that the decision on Nika Gvaramia's case is not the first and only case of pressure on the media manager by the judiciary.

On April 19, 2019, the Board of Councillors removed Natia Kapanadze from the post of director of Adjara TV by means of impeachment. Due to the lack of legal substantiation, non-governmental organizations [sharply criticized](#) the initiative of the members of the Board of Councillors of Adjara TV and Radio to impeach Natia Kapanadze. On April 30, 2019, Natia Kapanadze filed a lawsuit against the broadcaster, in which she demanded from the court to declare the decision of the Board of Councillors null and void her reinstatement and compensation for damages. On May 6, 2022, after three years of consideration, Batumi City Court [Judge Jumber Bezhanidze dismissed the claim](#) of the former director of the TV company.

Avtandil Tsereteli, a father of the founder of TV Pirveli - Vakhtang Tsereteli, became the addressee of the criminal prosecution. Avtandil Tsereteli [was found guilty by the court](#), but did not impose a sentence of imprisonment due to the expiration of the limitation period. Moreover, within the framework of the criminal investigation, Zurab Gumbaridze, a Director-general of Formula TV, was repeatedly interrogated.

In addition, on September 7, 2021, the justices of the Supreme Court of Georgia, appointed newly and for life, sentenced David Kezerashvili, former Defense Minister and a founder of Formula TV, to 10 years in prison, on the so-called "Case of Drills". It should be noted that in the aforementioned case the former Defense Minister was acquitted by the inferior courts. Davit Kezerashvili was accused of embezzling government funds. It is important that the reinitiating a criminal prosecution was preceded by [the statement made by Prime Minister Irakli Garibashvili](#), on June 25 the PM said: "No sooner did I resign than he was acquitted. Now, it seems that he shall be seen to have his criminal case to be dealt with on time". It is also noteworthy that the judgement of conviction of the Supreme Court on that case, decided on September 7, had no reasoning part. This became known to the public defender when [she decided to obtain the decision](#). "It is interesting and remarkable why the Supreme Court makes such a hasty decision so that the court did not manage to reason upon the reasoning part of the judgement of conviction," she said. The politicized grounds of the case against Kezerashvili were established by international actors even when the Georgian side demanded twice the extradition of the former defense minister to Georgia. They applied to France the first time and the United Kingdom the second time. In both countries, courts refused to extradite the former defense minister, [citing the political background of the case as a motive](#).

Arbitrary justice against media managers, legally unsubstantiated charges, and selective repressive measures against the broadcasters that criticize the authorities negatively affect the media environment

and confirm that the country's ruling establishment, by suppressing different and critical opinions, is trying to consolidate its power and surrender to narrow interests of their political party.

Conclusion

The legal analysis of the facts presented in the document shows that in 2021 and in the first half of 2022 the quality of media environment protection and professional integrity of journalists in Georgia sharply deteriorated. The decisions and clear tendencies taken by all three branches of government in exercising their powers, as well as public statements by the State and political figures clearly indicate that media freedom is being restricted systematically. Such a legal and political situation contributes to the activation of radical social groups hostile to journalists and the increase of social pressure on independent media.

Inadequate exercise of negative and positive duties by the State regarding the protection of media freedom has a negative impact on the quality of protection of freedom of speech, which, in turn, raises fair questions about the State's course with respect to democratic development.