

Introduction

Freedom of expression and Freedom of the Media is the crucial part of democratic state. In 2016, through the Universal Periodic Review, Georgia was recommended by five states to strengthen media pluralism and take measures that guarantee a free and independent media environment.¹ Despite fact that all those recommendations were supported by the Georgia, still there are significant challenges facing the media.

Issue N1. Legislative base and existing challenges

Although Georgian legislation fully protects freedom of expression, there are still certain pressing issues in terms of discriminatory approach and restriction of this right.

The recent events of 2017-2019 showed that the government desire to regulate the media. President and MPs proposed restriction of defamation as well as hate speech and offensive language, Georgian National Communication Commission (GNCC) wish to regulate media content and submitted a draft-law to the Parliament of Georgia. According to the proposed amendments, Article 56 of the current Law on Broadcasting will shift from the self-regulation zone to a state regulation field. The same article (when it was in regulation) served as a justification for violent shutdown of Imedi TV in 2007. Then GNCC concluded that the broadcaster was inciting civil unrest and the Court rapidly issued the ruling to take TV station off the air. The draft law contains risks of misuse/abuse and limitation of freedom of expression and contains major threats.

According to the Law of Georgia on Common Courts, the Public Broadcaster is authorized to carry out unrestricted photo-shooting of a trial, and if it does not exercise this right, another general over-the-air broadcaster has the authority to do so. Unless the over-the-air broadcaster is interested in the lawsuit, other media outlets are left without photo-video footage.

Such an approach is discriminatory and, compared to general broadcasters, puts them in an unequal position and impedes the informed information of the audience to the representatives of the media who do not have the authority to film the trials puts the media outlets having no authority to record the trials, in unequal position and delays their delivery of comprehensive information to the public.

Approaches of the Georgian National Communications Commission

The Commission has changed its approach in recent years and bans the posting of political advertisements in the non-election period. There is a risk that this approach will put political entities in an unequal position compared to the ruling party, as it is not uncommon for government agencies to place advertisements at the expense of the budget with the status of social advertising. Officially, the advertisement has the status of a social ad, although in terms of content, it may be political.

¹ Recommendations: 117.95,96,97,98 and 118.37 issued by Portugal, Ghana, Australia, USA and Czech Republic.

Recommendations to the Parliament of Georgia and Georgian National Communication Commission:

Refuse to pass the law by which the issues under the self-regulatory mechanisms of the broadcaster will be transferred for regulation and will become an additional means of influence on the media in the hands of the administrative body (National Communications Commission);
Amend the Law of Georgia on Common Courts, by which, in addition to general over-the-air broadcasters, all other types of media outlets will be allowed to cover the court sessions.
Promote and improve self-regulation mechanisms of the media.
Ensure freedom of expression for all political parties.

Issue 2. Freedom of the Media

Investigation Crimes against Journalists

During 2019, the number of cases of illegal interference in the professional activities of media representatives increased. In particular, the events of June 20-21 should be highlighted when there were cases of violations of the rights of media representatives, including freedom of expression, the right to protection from ill-treatment, and the right to property. According to current information, within the frames of the ongoing investigation, the General Prosecutor's Office of Georgia is studying the alleged crimes committed against journalists. However, as of today, the Prosecutor's Office has not charged any person with any violations committed against media representatives.²

According to the Georgian Charter of Journalistic Ethics, the evidence obtained by GYLA, as well as footage taken by various media outlets, confirm that during and after the dispersal of the rally, about 40 media representatives were prevented from carrying out their professional duties. Out of these, 32 members of the media were injured in various parts of the body, 6 of them were prevented from filming the ongoing events, and 1 person was illegally deprived of liberty.³

Nor has been ensured speedy and effective investigation of crimes against journalists and media outlets, among those are alleged abduction of Azerbaijani journalist Afgan Mukhtarli on May 29, 2017,⁴ and crimes of illegal interference in journalistic activities during the election periods.

Independence of the Public Broadcaster

² GYLA's research on "Legal Assessments of June 20-21 Events". Page 50-55. Available at: <https://bit.ly/3i0gbe6>

³ GYLA's research on "Legal Assessments of June 20-21 Events". Page 55. Available at: <https://bit.ly/3i0gbe6>

⁴ NGO's STATEMENT ON FORCED DISAPPEARANCE OF AFGAN MUKHTARLI AND UNFINISHED INVESTIGATION. Available at: <https://bit.ly/3i6gwvM>

The independence of the Public Broadcaster still remains a challenge. After the amendments to the Law of Georgia on Broadcasting in February 2018, the law on procurement does not apply on the part of procurements of the Public Broadcaster. As a result, the risks of corruption have increased. In addition, the same legislative changes increase the maximum time for public broadcaster advertising, meaning that the commercial influence of the public broadcaster increased significantly (contrary to the principle established by the law that the public broadcaster should be independent - by the way, of commercial influence).

Changes in Editorial Policy of Adjara Television⁵ - Despite sharp media polarization, in 2018, Adjara TV was rated as an objective and impartial television. It is noteworthy that in the same research, the Public Broadcaster was assessed as a media outlet with positive attitudes towards the government and the research indicated that it failed to ensure editorial independence and impartiality in the second round of the presidential elections.⁶

In April 2019, the director of Adjara Television and Radio - Natia Kapanadze – was impeached. Afterwards, the developments in television made it clear that this was the beginning of an attempt to change the channel's editorial policy, which later served to transform the LEPL Adjara Public Broadcaster and Radio into pro-government media.⁷

Collection order Presented to Broadcasters - In August 2019, the Revenue Service submitted a collection order to TV Pirveli, Rustavi 2, Kavkasia and several regional channels, due to non-payment of budget debts. The Georgian government had not used such an automatic sanction against large broadcasters for years. According to the widespread information, since 2016, Rustavi 2 TV has had a debt of 28 million GEL, Imedi TV - 19 million GEL, and Maestro TV - debt of more than 8 million GEL to the state budget.⁸

Access to Public Information – Illegal refusal to disclose public information by public authorities has reported by journalists. These public offices abuse the regulations of freedom of information so that they disclose requested public information only after a journalist files a case to the court which causes significant delays and makes ineffective the process of disclosure of public information envisaged by law and requires significant financial resources that the media frequently cannot afford.

⁵ NGO's RESPOND TO THE IMPEACHMENT INITIATIVE OF ADJARA TV AND RADIO DIRECTOR. Available at:

<https://bit.ly/2Yu0oMU>

⁶ OSCE/ODIHR international elections observation mission, final report. Presidential elections, October 28, 2018. Available at: https://www.osce.org/files/f/documents/9/4/412724_2.pdf p.4, 5-6, 55-56 (Last seen on: 26.03.2020)

⁷ Human Rights and other public organizations collectively address to the International organizations concerning the alarming processes in the Adjara Public Broadcaster Available at: <https://bit.ly/2ZOakeF> (Last seen on: 26.03.2020); GYLA – Editorial independence of Adjara TV is in jeopardy Available at: <https://bit.ly/2O4Hkyr> (Last seen on: 26.03.2020).

⁸ GDI's report on "Freedom of Expression", page 15. Available at: <https://www.gdi.ge/uploads/other/1/1091.pdf>

Recommendations to the GoG, Chief Prosecutor's Office and Ministry of Internal Affairs:

Investigate in a timely and effective manner the facts of unlawful interference with media representative's professional activities and excessive use of force (especially in the cases of 20-21 June 2019).
Conduct separate periodic statistics of crimes against journalists that will be freely available for broader public; to ensure accuracy of the statistics, the data shall include information about crimes of illegal interference in journalistic activities as well as other crimes under the Criminal Code of Georgia committed against journalists and related to their professional activities.
Ensure real independence of the Georgian Public Broadcaster;
Legislative regulations should become in compliance with the principle of Public Broadcaster.
To LEPL Revenue Service / Ministry of Finance: Tax policy towards the media should not be selective and should not be used as a tool of pressure on the media.

Recommendations to the Public Authorities and to the Parliament of Georgia:

Ensure disclosure of public information according to the law and in the timeframe prescribed by law to make the process of disclosure of public information to the journalists effective.
Make amendments to the FoI law to minimize abuse of procedure for disclosure of public information by administrative bodies and introduce mechanism of responsibility of public official for illegal refusal to timely disclose public information.
Ensure real independence of the Georgian Public Broadcaster;