

UNLAWFUL INTERFERENCE WITH PROFESSIONAL ACTIVITIES OF JOURNALISTS:

Selective justice



2021

Human Rights Center



Author: LazareJibladze

Reviewer: AlekoTskitishvili

The Analytical Document was prepared with the financial support of the US National Endowment for Democracy (NED). The opinions expressed in the Analytical Document are of HRC and do not necessarily represent those of the donor. Therefore, NED is not responsible for the content of the text laid here.



Contents

General overview 4

Existing situation 4

Analysis of statistical data 6

Georgian legislation 8

International standards..... 9

Legal assessments10

Conclusions12

Recommendations13

General overview

A free, independent, and pluralistic media based on freedom of information and expression is a key element of a functioning democracy. Freedom of the media is crucial to the protection and exercise of all other human rights¹. Numerous cases of torture, inhuman treatment, discrimination, corruption, and other serious offenses are exposed by the media, especially by investigative journalism. Oftentimes disclosing facts to the public is an irreplaceable step in responding to human rights violations and increasing the government's accountability.

Creating a free and secure media environment is inconceivable without the government to respect the principle of equality before the law. On the other hand, adherence to the above principle precludes a selective approach to the media and the possibility for placing critical media outlets or journalists in an unequal position.

According to assessments by various local and international organizations, a pluralistic media environment has been maintained in Georgia in recent years, but the field is still sharply polarized. The polarization of the media is unequivocally linked to the political polarization in the country, which in turn is a challenge typical for traditional liberal democracies.

Political polarization is also a challenge for the Georgian media landscape where the polarization becoming most acute with the intensification of such important political processes like elections. There is an opinion that a polarized media environment may in itself be a threat to democratic values². However, in another view, the existence of a pluralistic media environment and access to different media outlets minimizes the threats posed by polarized media³. Nevertheless, in any case, freedom of the media and the creation of a safe environment for journalistic activities are the most important tasks of all governments with democratic values.

In recent years, the facts of repressions and violation of media freedom are increasing in Georgia having acquired an alarming nature. Various attempts to control the media, various forms of pressure on and obstruction of the professional activities of journalists, the increased tendency of the facts of physical or verbal assaults against journalists significantly damages the human rights standards in the country and gives a strong signal of weakening democratic values and human rights standards in the country.

Existing situation

Even before the 2012 parliamentary elections, the pre-election program of the Georgian Dream political coalition paid special attention to ensuring media freedom⁴. After coming to power, the Georgian Dream - Democratic Georgia party committed itself to protect media freedom, the safety of journalists, and ending impunity for crimes against media.

Although the facts of political pressure on the media and interference with journalistic activities have diminished in the years since the 2012 parliamentary elections, the situation has changed radically in recent years. Journalistic activities are not safe in Georgia nowadays. In the course of their professional

¹ See Freedom of expression, media freedom and safety of journalists: <https://www.coe.int/en/web/commissioner/thematic-work/media-freedom>

² See How does social media impact democracy? <https://charleskochfoundation.org/stories/how-does-social-media-impact-democracy/>

³ See Center for Media Pluralism and Media Freedom: <https://cmpf.eui.eu/mpm2021-executive-summary/>

⁴ See. <http://www.ivote.ge/images/doc/pdfs/ocnebis%20saarchevno%20programa.pdf>

duties, journalists are increasingly subject to persecution, which is largely encouraged by high-ranking government officials, the members of spiritual hierarchy, and various ultra-conservative and ultra-right groups.

Despite the coherent legal framework in place to protect journalistic activities in the country, the activities of journalists are becoming increasingly vulnerable due to the problem of actual enforcement of the law by various agencies and political bias. Insults and attempts to discredit the opposition media and journalists working for the opposition media, as well as a lack of political will to curb various acts of violence against journalists, may lead to citizens being denied access to information and participation in public debates. This, obviously, will significantly hinder the democratic development of the country.

The Georgian media environment in the reports of international organizations

In different countries, especially in transition countries, the state of media freedom is assessed annually by various authoritative international organizations. Such organizations include IREX, Freedom House, Reporters Without Borders, and others. The annual reports of these organizations show that after the 2012 parliamentary elections in Georgia, the short-term improvement in media freedom was followed in recent years again by the deterioration of freedom.

For example, according to IREX reports, Georgia's Media Sustainability Index has been deteriorating slightly since 2014. However, the country remains within the countries of the "near-sustainability" category⁵.

According to the 2014 Freedom House report, in terms of media independence, the situation in Georgia improved by 0.25 points and equaled to 4.0, the same figure did not change in 2015 and 2016. However, in the following years, instead of improving, it obviously declined⁶.

According to the 2016 report of Reporters Without Borders, the media freedom index in Georgia has deteriorated by 0.26 points compared to the previous year. However, position-wise it was promoted by 5 places and moved from 69th to 64th place. This happened at the expense of the deterioration of the media freedom index by other countries⁷.

In addition, it should be noted that among the problems related to media freedom in Georgia, special attention is paid to signs of political pressure. In all of the reports of the above international organizations,⁸ such examples are the closure of talk shows on Imedi TV and the Public Broadcaster; also, the developments around Rustavi 2 TV.

In 2021, Reporters Without Borders published an annual survey finding that freedom of the press in Georgia had deteriorated slightly. However, the country's position in the Press Freedom Index remained unchanged. According to the survey, Georgia ranks 60th position out of 180 countries with 28.64 points, and as a result, the country's media environment is "pluralist but not yet independent." Georgia had 28.59

⁵See EUROPE & EURASIA MEDIA SUSTAINABILITY INDEX 2014. <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2014-georgia.pdf>

⁶ See. https://freedomhouse.org/sites/default/files/NiT2016_Georgia.pdf

⁷ See. <https://rsf.org/en/ranking/2016#>

⁸<https://rsf.org/en/georgia>; https://freedomhouse.org/sites/default/files/NiT2016_Georgia.pdf;
https://freedomhouse.org/sites/default/files/NiT2016_Georgia.pdf.

points last year and 28.98 points in 2019⁹.

Analysis of statistical data

On September 23, 2021, HRC requested from various public institutions¹⁰ the statistical information on the facts of illegal interference with professional activities of journalists and about the ill-treatments towards the journalists clearly indicating that the rate of prosecution for the offenses under Article 154 of the Criminal Code of Georgia is rather low in contrast to the real situation.

RATE OF INITIATION OF CRIMINAL PROSECUTION FOR THE OFFENSES UNDER ARTICLE 154 OF THE CRIMINAL CODE OF GEORGIA	
(Number of persons)	
2012	4
2013	4
2014	0
2015	1
2016	1
2017	0
2018	2
2019	4
2020	2
From January 1, 2021 to September 1, 2021	31

Source: The Office of the General Prosecutor of Georgia¹¹.

According to the response of the General Prosecutor's Office of Georgia¹² on June 20-21, 2019, in Tbilisi, as of September 10, 2021, 8 journalists have been granted a victim's status as part of the ongoing investigation into the fact of abuse of official authority through violence and weapons by certain law enforcement officers involved in the protection and restoration of public order.

Criminal proceedings have been initiated against 3 officers of the Ministry of Interior of Georgia on charges of violence, abuse of official authority i.e. into offenses under Article 333(3)(b) of the Criminal Code of Georgia with hearings on the merits being held at Tbilisi City Court.

The factual circumstances of the case clearly show that inhuman and/or degrading treatment was committed in certain episodes of the offense which in essence is more serious than the abuse of official authority provided for in Article 333 of the Criminal Code of Georgia. However, as it seems the

⁹see <https://rsf.org/en/georgia>.

¹⁰The Supreme Court of Georgia; The Office of the General Prosecutor of Georgia; The Ministry of Interior of Georgia.

¹¹Reply letter # 13/57936 of the General Prosecutor's Office of Georgia to the letter of HRC from September 23, 2021.

¹²Reply letter #13/56032 of the General Prosecutor's Office of Georgia to the letter of HRC from September 15, 2021 .

investigation is still being held under Article 333. Such an inclination may serve the purpose of mitigating the liability for law enforcement officers by investigative bodies. Moreover, despite the fact that journalists under the protection of HRC were prevented from carrying out their activities by law enforcement officials during the dispersal of the rally, the investigation is not held under Article 154 of the Criminal Code (unlawful interference with professional activities of journalists).

Further, according to the Office of the Prosecutor General¹³, 45 journalists and cameramen were granted a victim status by the ongoing investigation into the events of July 5-6, 2021 taking place on Rustaveli Avenue in Tbilisi. 31 persons are being prosecuted, 26 of them under Article 154 (2), Article 156 (2) (a) and Article 225 (2) of the Criminal Code of Georgia; 1 person under Article 156 (2) (a) and Article 225 (2) of the Criminal Code of Georgia; 3 persons under Article 160 (2) (a) and Article 160 (3) (a), Article 156 (2) (a) and Article 225 (2) of the Criminal Code of Georgia; and 1 person under Article 154 (2) and Article 156 (2) (a) of the Criminal Code of Georgia.

According to the information requested from the Supreme Court of Georgia¹⁴, the district (city) courts of Georgia adjudicated the following on the basis of Article 154 of the Criminal Code of Georgia from January 1, 2012 to August 1, 2021:

1. 20 criminal cases with judgments being rendered against 26 persons;
2. Judgments of conviction being rendered against 25 persons in 19 cases;
3. As of August 1, 2021, there was one criminal case pending.

Separate statistical data compiled in the Information Center of the Information-Analytical Department of the Ministry of Interior

Articles of the Criminal Code	Start of investigations									
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021 (January - July)
Article 154 of the Criminal Code of Georgia "Unlawful interference with professional activities of journalists"	21	3	3	0	6	2	12	13	7	8

Source: The Ministry of Interior of Georgia¹⁵

According to the information requested from the Ministry of Interior of Georgia, in connection with the events of July 5-6, 2021, more than 100 people have been detained in an administrative manner, some of whom were released on their own recognizance and against the promise to appear before the court, and

¹³ Reply letter # 13/57936 of the General Prosecutor's Office of Georgia to the letter of HRC from September 23, 2021.

¹⁴ Reply letter # P-654-21 of the Supreme Court of Georgia to the application of HRC dated from September 2, 2021.

¹⁵ Reply letter #1 21 02545980 of the Ministry of Interior of Georgia to letter # 2317903 of HRC from 2021.

some were incarcerated at pretrial detention facilities of the Ministry of Interior.

Georgian legislation

Unlawful interference with the professional activities of journalists is a criminal offense at the national level under Article 154 of the Criminal Code¹⁶. The above Article holds an act criminal aiming at interference with the professional activities of journalists through having an impact on the journalist, resulting in restrictions on the freedom to receive and disseminate information recognized by the Constitution.

Article 154. 1. Unlawful interference with the journalist's professional activities, i.e. coercing a journalist into disseminating or not disseminating information – shall be punished by a fine or community service for a term of 120 to 140 hours or by corrective labor for a term of up to two years, or house arrest for a term of six months to two years.

2. The same act committed using a threat of violence or official position, — shall be punished by a fine or imprisonment for up to two years, with or without the deprivation of the right to hold any office or to carry out activities for up to three years.

According to the Constitution of Georgia, every person has the right to freely receive and disseminate information¹⁷. The Constitution also holds the media to be free. Censorship is prohibited. The State or individuals are not allowed to monopolize the means of mass media or the ways of dissemination of the information¹⁸.

The criminal culpability punishable under Article 154 of the Criminal Code includes unlawful interference with professional activities of journalists which in turn is manifested in coercing them to disseminate information, on the one hand, and to refrain from disseminating the information, on the other hand.

The interference with journalistic activities can be manifested in influencing the journalist himself/herself, as well as other persons, in order to deprive the journalist of the possibility to carry out his / her lawful professional activities. Further, the constituent elements of the crime may be manifested in the coercion of the journalist to disseminate false information or conceal true information.

As for the practice of the interference, this may be the destruction of the information collected by a journalist, the demand to cease the journalistic activities, the implementation of censorship measures, the creation of obstacles to the professional independence of the editorial staff, and so on.

Coercing a journalist to disseminate information or refrain from doing so means influencing his or her will in one way or another. It should also be noted that exerting violence shall be an exception, as it aggravates the liability of the person, as provided for in Article 154 (2) of the Criminal Code.

The main features of the Article (which is Article 154 of the Criminal Code) banning the unlawful interference with professional activities of journalists are as follows: **The offense shall be accomplished from the moment the journalist is coerced, regardless of whether the offender has achieved the desired goal.**

¹⁶ See The Criminal Code of Georgia, Article 154: <https://matsne.gov.ge/ka/document/view/30346?publication=36>

¹⁷ See The Constitution of Georgia, Article 17 (2) <https://matsne.gov.ge/ka/document/view/30346?publication=36>

¹⁸ See The Constitution of Georgia, Article 17 (3) <https://matsne.gov.ge/ka/document/view/30346?publication=36>

Further, it should be noted that the purpose of committing the offense is to hinder the freedom of the mass media outlet and redirect the freedom of the media in favor of the intruder. The motives may vary without affecting the subsumption.

As we can see, following the international standards, illegal interference with professional activities of journalists including through the threat of violence or the official position is punishable under the Criminal Code of Georgia setting high standards for protecting the professional activities of journalists.

International standards

According to the standard set by the Committee of Ministers of the Council of Europe¹⁹, the United Nations²⁰, and the European Court of Human Rights²¹, a journalist is not only a professional journalist and other traditional media actors, but also the term includes other actors who contribute to public debates, perform journalistic activities, or perform the functions of "public watchdog", informing the public about issues of public interest.

According to the OSCE / ODIHR Guidelines on the Protection of Human Rights Defenders, journalists promoting human rights are human rights defenders, regardless of their accreditation status and the media through which they work (print, radio, television, or Internet).²²

Journalists who expose human rights abuses, corruption, or ill-treatment, or report on the activities of whistleblowers, should not face prosecution, arbitrary legal action, or other consequences for doing so. Authorities should acknowledge the importance of independent and investigative journalism in uncovering abuses and misuse of power, and they should support it in order to enhance accountability. According to the Guidelines, the authorities should ensure that journalists are not subjected to arbitrary criminal prosecutions and have access to legal aid and other means of support to enable them to carry out their work without interference and fear of reprisals. In particular, they should take steps to ensure the safety of journalists and ensure that journalist human rights defenders are effectively protected from attacks and other abuses both by state and non-state actors. Any crime committed against human rights defenders, including against journalists defending human rights, must be promptly, effectively, and independently investigated in a transparent manner, and those responsible must be brought to justice.

According to the recommendation of the European Commission of 16.09.2021²³, Member States should investigate and prosecute all criminal acts committed against journalists, whether online or offline. The investigation must be carried out in an impartial, independent, effective, transparent, and timely manner, making full use of existing national and European legislation, to ensure that fundamental rights are protected and justice is swiftly delivered in particular cases and prevent the emergence of a 'culture' of

¹⁹ See Recommendation CM / Rec (2016) 4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors: https://www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts/-/asset_publisher/aDXmrol0vvsU/content/recommendation-cm-rec-2016-4-of-the-committee-of-ministers-to-member-states-on-the-protection-of-journalism-and-safety-of-journalists-and-other-media-?_101_INSTANCE_aDXmrol0vvsU_viewMode=view/

²⁰ See United Nations CCPR / C / GC / 34, International Covenant on Civil and Political Rights, Human Rights Committee, 102nd session Geneva, 11-29 July 2011, General comment No. 34. <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

²¹ See CASE OF CENTER FOR DEMOCRACY AND THE RULE OF LAW v. UKRAINE, STRASBOURG March 26, 2020, FINAL. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-201896%22%5D%7D>

²² See OSCE / ODIHR - Guidelines on the Protection of Human Rights Defenders, paragraph 54, p.11. <https://www.osce.org/files/f/documents/c/1/119633.pdf>

²³ See COMMISSION RECOMMENDATION of 16.9.2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, p.10.

impunity regarding attacks against journalists.²⁴

Legal assessments

Over the years, the correct subsumption of the facts of unlawful interference with the professional activities of journalists by the investigative agencies remains a significant challenge. The analysis of statistical information maintained by various public agencies provides one of the examples of illegal interference. In the vast majority of cases, although the facts of the cases clearly show that the crime of unlawful interference with professional activities of journalists is committed, the investigation authorities misleadingly and with an intention subsume the act only as a consequential result usually constituting a cumulative offense without applying the special article (meaning Article 154) at all. It is suspected that such a declination may serve the government's policy towards opposition TV outlets with critical editorial policies, aimed at undermining public confidence in critical media and discrediting them.

As noted, Article 154 of the Criminal Code is often deliberately misused in practice by investigative agencies. As evident from the above discussion, the normative provision bears the elements causing the failure of the activity. For example, the impossibility to take a video, to write an article, to publish material, etc. Therefore, the subsumption of such facts or offenses is not a problem provided there is the appropriate will on the part of the investigative agencies.

At present, the quantitative data of the cases of violence exerted against journalists is alarming. In such cases as, for example, if a journalist is beaten, thrown down a ladder, injured in the head, but he/she nevertheless managed to take a video or publish the material, the perpetrator may be charged with hooliganism (Article 239) or inflicting intentional damage to health²⁵ (Articles 117; 118; 120), but not for unlawful interference with professional activities of the journalist (Article 154).

In general, the Georgian problem of defining the crime of unlawful interference with the professional activities of journalists is related not so much to the regulatory framework but rather to the deliberate wrong subsumption carried out by the investigative agencies. That is why the investigation of many cases related to the violation of the rights of reporters begins not under Article 154 but some other article.

Further problems stem from the practice of recognizing persons as victims. For example, the vast majority of journalists seriously injured during the events of June 20-21, 2019 have not up to the date been granted a victim status. The Georgian Charter of Journalistic Ethics has listed 39 journalists having received bodily harm of various gravities²⁶. Many of them required surgical interventions due to the injuries sustained. However, according to the information requested from the General Prosecutor's Office of Georgia²⁷, as of September 10, 2021, only 8 journalists have been recognized as victims²⁸ in the ongoing investigation at the General Prosecutor's Office of Georgia into the facts of the abuse of official authority through violence and using arms by certain law enforcement officers involved in the protection and restoration of public order. As for the offenders, the criminal proceedings were initiated against only 3 officers of the Ministry of Interior of Georgia on charges of violence, abuse of official authority who were charged with the culpability of the criminal offense under Article 333 (3) (b) of the Criminal Code of Georgia.

²⁴ See COMMISSION RECOMMENDATION of 16.9.2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, p.11.

²⁵ See Article 117 of the Criminal Code of Georgia (*Grievous harm to health with an intent*); Article 118 (*Less severe harm to health with an intent*); Article 120 (*Light harm to health with an intent*).

²⁶ See The Appeal of the Journalists to the Government of Georgia, to the Minister of Interior and the Diplomatic Corps: <https://www.gartia.ge/ka/siakhleebi/article/73244>

²⁷ Reply letter # 13/56032 of the General Prosecutor's Office of Georgia to the letter of HRC from September 15, 2021.

²⁸ Reply letter # 13/57936 of the General Prosecutor's Office of Georgia to the letter of HRC from September 23, 2021.

HRC is involved with the cases of three journalists injured during the June 20-21 events: MerabTsaava (Guria News), BeslanKmuzov (KavkazskiUzel), and Zaza Svanadze whose rights and legitimate interests are defended by HRC lawyers. HRC applied to the European Court of Human Rights after exhausting all available legal means at the national level in order to have the journalists under the defense by HRC be recognized as victims by the Office of the Prosecutor General and to make the Prosecutor's Office conduct a timely, efficient and impartial investigation. The applications refer to the violations of Article 10 of the European Convention on Human Rights (freedom of expression); further that of Article 11 (freedom of assembly and association); and Article 13 (effective remedy). The Prosecutor's Office granted the journalists the status of victims only after the Strasbourg Court began communicating with Georgia²⁹.

The case of journalist VakhtangSanaia is also noteworthy. On February 25, 2021, the journalist was attacked by three drunk persons. The journalist was with his family members, including an infant child, and was trying to mount a rise in a road with his vehicle assisted by the representatives of the rescue guard in the efforts. According to Sanaia, the defendants physically assaulted him, threatened him, and attacked his family members. On the same day, the Ministry of Interior arrested three people on charges of group violence. According to the information by the Ministry of Interior, the accused persons who were drunk, used physical violence against VakhtangSanaia and his relative preliminary exchanging with him some verbal remarks. The three detainees were charged under Article 156(2)(a), Article 151(1), and Article 126(1)(b)(c) of the Criminal Code of Georgia³⁰.

Tbilisi City Court found all three defendants guilty of the offense sentencing them to imprisonment of six months which is the minimum sentence for the sanction. All three attackers were remanded in custody for 6 months, so the sentence was deemed to be served and there were released from the prison the same day the judgment was announced.

According to the Coalition for Media Advocacy, the judgment of the court failed to administer justice properly. The court judgment may encourage violence against the members of the critical media, which on the background of ineffective reactions by the authorities to such cases, further aggravates the media environment in the country³¹.

The main purpose of the punishment is to prevent a new crime, re-socialize the offender and restore justice. Whereas, the minimum term of the sentence used by Tbilisi City Court fails to meet these goals, creating a sense of impunity and highly encouraging violence against members of the media.

As for the counter-demonstrations against the March of Dignity on July 5-6, 2021 in Tbilisi, there was observed an unprecedented scale of violence against journalists. Indeed, the mass acts of violence against the media representatives and interference with the professional activities of journalists were committed by certain individuals gathered at the rally. Media representatives were severely beaten by some participants of the counter-demonstration. On July 5, in contrast to the July 6 rally, the police passively intervened in violent incidents and did not detain the perpetrators. The journalists found themselves completely unprotected by the State clearly involving a discriminatory connotation. The actions had a well-organized nature.

On July 5, 2021, a total of 53 journalists and cameramen from various media outlets working at the sites

²⁹See Cases Connected with the Events of June 20-21, 2019: A Political Justice and Disputed Amnesty. Human Rights Center, 2021. P.17 <http://www.hrc.ge/files/10220-21%20june.pdf>

³⁰ See The Statement by Human Rights Center: http://www.hrc.ge/261/geo/?fbclid=IwAR2wCrdCT7g4KuhbB7cifUdI96-7ysPuYBYRDLEz4_TqffEAn1hvkcxN560

³¹ See more information at: <https://bit.ly/3HUAQwU>

of counter-demonstrations were attacked³². The attacks on journalists were of varying intensity, with several media workers receiving severe physical injuries and mutilations³³. Above that, LeksoLashkarava, the cameraman of TV Pirveli, who became a victim of brutal violence while performing his professional duties on July 5, 2021, died at his home on the night of July 11³⁴. Despite the accelerated investigative actions and other versions disseminated by the authorities regarding the injuries inflicted on July 5 and the cause of the death of LeksoLashkarava, the relevant authorities failed up to date to release convincing evidence, including the final results of the medical examination.

Further, according to the official data³⁵, 45 journalists and cameramen were granted a victim status by the ongoing investigation into the events of July 5-6, 2021. It is possible that at this stage, in contrast to the events of June 20-21, the process of granting victim status was greatly influenced by the international reaction over the large-scale violent incidents against journalists, when several local or international organizations or friendly countries called on the Georgian authorities to investigate these violent crimes. In addition to international pressure, it may have been further influenced by the fact that, unlike the events of June 20-21, 2019, in this case, the potential culprits were not state officials i.e. the police, riot police, but the citizens involved in the counter-demonstration. The investigative agencies were freer to severely prosecute them while showing loyalty to the police officers.

HRC protects the rights and legal interests of 9 journalists who were injured during the acts of violence against media representatives and interference with their journalistic activities on July 5-6. Up to date, all affected journalists under the protection of HRC have been granted victim status³⁶. Nevertheless, the identification of the offenders by investigative agencies and the application of legal measures against them remains a problem. Only 2 defendants have been remanded in custody in this case. As for the other persons, the investigative bodies have not yet identified all the persons involved in the violent acts. Further, the organizers of the acts of violence have not been prosecuted, including those of the clergy who openly called on the people gathered in the counter-demonstration to commit acts of violence and/or took part in such acts. In the end, the state is not fulfilling its positive obligations to protect the protesters and journalists working there.

Conclusions

The cases of violations of the rights of journalists in Georgia, the acts of violence against them, and large-scale interference with their professional activities have reached a critical point. The professional activities for journalists have become life-threatening, especially for the representatives of critical media outlets.

The Georgian authorities do not ensure the safety of journalists, and the attacks carried out in recent years remain mostly uninvestigated. On July 5-6, 2021, 53 members of the media were injured in the attacks by homophobic and violent groups. During the events of June 20-21, 2019, 39 journalists were injured (of which only 8 journalists are recognized as victims).

Concerning the events of July 5-6, 2021, it should be noted that contrary to Article 17 of the Constitution of Georgia and Article 10 of the European Convention on Human Rights, the Georgian authorities have not reacted effectively to prevent the attacks by the hatred groups on media representatives. Accordingly, the State did not ensure journalistic activities in a safe environment; did not fulfill the positive obligations

³² See The List of journalists attacked by the violent groups <https://bit.ly/3yqBuNH>

³³ Ibid

³⁴Total information <https://bit.ly/3xkURWY>

³⁵Reply letter # 13/57936 of the General Prosecutor's Office of Georgia to the letter of HRC from September 23, 2021.

³⁶ See The Statement by Human Rights Center: <https://bit.ly/3AcjJC7>

imposed on it.

During the dispersal of the rally in front of the Parliament on June 20-21, 2019, through disproportionate use of special means by the police, the media representatives working on the site were also injured along with the protesters. Above the fact that they have suffered various degrees of health damage, they had suffered also unlawful interference with their professional activities. Before dispersing the rally, the law enforcement officers did not give the protesters a verbal warning, and no communication with the journalists took place requesting the journalists to leave the territory to protect their safety. Consequently, the activities of the journalists served the aim to cover the developments in front of the Parliament and no grounds were allowing the authorities to restrict the activities of the journalists.

As it was mentioned, according to the Criminal Code of Georgia, illegal interference with the professional activities of journalists is a basis for imposing criminal liability. In the above cases, it is critically important for the investigative agency to identify the persons liable for various degrees of damage to the health of journalists through a timely and objective investigation.

The wrong subsumption is an acute problem. Although in the vast majority of cases, the facts unequivocally prove that there was committed the crime of unlawful interference with the professional activities, the investigation purposefully subsumes the acts only as consequential results without applying the special article (Article 154 of the Criminal Code). We can say, that the special article was not used until 2021. In 2021, 31 proceedings have already been initiated under the article, however, there are no defendants in the cases.

Further problems stem from the practice of refusing the status of a victim. The relevant authorities unreasonably refuse to grant injured journalists the status of victims.

The aggressive and threatening rhetoric of the ruling party against journalists is also alarming, which has taken on an almost daily appearance, further encouraging violence against the media and exacerbating the already complex and polarized media environment in the country. Moreover, the government is boycotting the critical media and does not participate in their political shows.

Finally, the State is obliged to provide the right subsumption to the crimes of interference with the professional activities of the journalists. It is important that the investigative agencies inquire into all episodes of violence and interference with journalistic activities in a timely, efficient, and organized manner, including identifying the discriminatory motives.

Recommendations

The Georgian authorities:

- To immediately stop using hatred language towards the media and openly support the freedom of carrying out the professional activities of the journalists;
- To make explanations in favor of freedom of expression and clearly and unequivocally condemn the violent calls and actions against journalists;
- To facilitate the identification of the organizers of the acts of mass violence and attacks on the reporters committed on July 5-6, 2021, which were pre-planned and well-organized actions, as well as to identify the organizations or individuals funding the radical forces;
- To increase the transparency and efficiency of the investigation process, to set up a multi-faction commission under the auspices of the Parliament, and to enhance the cooperation with the

- relevant agencies of the partner states to conduct the investigation effectively;
- To create guarantees of a strong and transparent judiciary to ensure the legal liability of those who have attacked journalists and/or interfered with their professional activities;
 - To grant the injured journalists the victim status;
 - To assess the extent of the effectiveness of the planning and enforcing the deployment and actions of the police forces to prevent violent developments at protest rallies.

The investigative bodies:

- To immediately ensure the impartial, prompt and efficient investigation into the facts of interference with professional activities of the journalists;
- To provide the right subsumption to the facts of interference with the professional activities of journalists;
- To ensure a thorough and objective investigation process to identify all persons involved in the violent events of July 5-6, 2021, and to identify the organizers of the violent actions and to prosecute them legally in an appropriate manner.