

(Not) To Enquire, (Not) To Record, (Not) To Expose

No. 4

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4 June, 2010

In Focus:

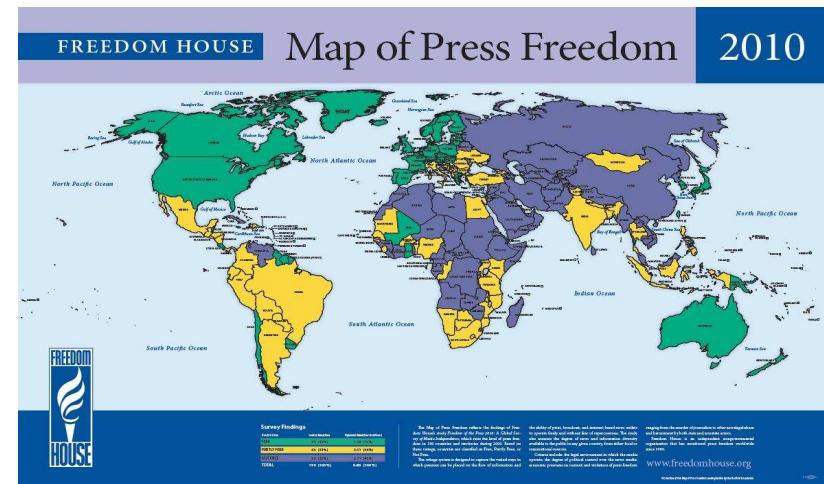
Ensuring Freedom of Expression and Media – A Long-Standing Challenge in the South Caucasus

Killings and arrests of critical journalists on fabricated and/or ill-grounded charges, physical and verbal assaults, ineffective investigations and widespread impunity for violence against journalists, restrictive laws and systematic denial of public information are among the most widespread means used to muzzle journalists in Armenia, Azerbaijan and Georgia and deter them from documenting and exposing violations of law and human rights, abuse of power, corruption, etc.



While the constitutions and laws of each of the three countries prohibit censorship and provide for freedom and independence of media, implementation of these laws has been a long-standing challenge.

Azerbaijan continues to top lists for the number of journalists imprisoned, with more added in



2009. In **Armenia** and **Georgia** (self)-censorship is widespread, lack of politically balanced coverage and plurality of opinions remains in short supply.

In 2009 Georgia ranked **partly free** on the Map of Press Freedom, Armenian and Azerbaijani media - **not free**.

Lack of free and professional media not only limits significantly the capacities of human rights defenders to reach out to the public, but often turns into a tool used for discrediting and silencing critical voices and watchdogs.

A recent example of this has been an aggressive information campaign launched in Georgia against defenders since December 2009.

Problems with the independence of media in the South Caucasus remain closely linked with the level of democracy and existing political culture. Without improving the latter

two, transforming the media into an independent watchdog seems to be less realistic.

In this issue:

Freedom of Expression and Media in the South Caucasus

Protecting Defenders – Protecting Human Rights: How Well are they protected in South Caucasus?



Justice after the War –

Photo reportage: war – effected people a year and 8 months after the war:



This project is funded by the European Union



project is implemented by the Human Rights Center (Georgia).

IREX Media Sustainability Index

IREX's Media Sustainability Index (MSI) provides an analysis of the media environment in 21 countries of Europe and Eurasia during 2009 and together with previous versions shows trends in the media sector since 2001. Since the MSI was first launched in 2001, it has revealed a mixture of progress and regression in the region as a whole, the impact of EU accession for some, and the implications of increased commercialization in general.

"Although Armenia's legal framework supports freedom of speech, ongoing concerns about the enforcement of laws and overall low awareness (both on the part of the authorities and journalists) of laws surrounding freedom of speech continue to hold back the media. Questions about judicial independence and ongoing violence and harassment of the media led journalists to decry the prevailing air of impunity. Self-censorship is now widespread in Armenia, especially on television.

The same concerns regarding the fairness, competitiveness, and political neutrality of broadcast media licensing carried over from last year, as the process of granting licenses is currently suspended while broadcast media undergo digitalization. According to various estimates, the digitalization process may last until 2011, 2012, or possibly even 2015, yet the panelists feel that the difficulty of the digitalization process is artificially exaggerated. Noting that the licensing process is not taking place independently from political influences, they viewed the suspension of license competitions as a means to limit the freedom of speech."



While assessing Media environment in Armenia, to each of the categories IREX allocated following points in the four-point system:

**Freedom of Speech: 1.72
Professional Journalist: 1.65
Plurality of News: 2.21
Business Management: 1.95
Supporting institutions: 1.72,**

See the full report on Armenia http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Armenia.pdf

"Azerbaijan continues to top lists for the number of journalists imprisoned, with more added in 2009. Worse, 68-year-old Novruzali Mamedov, in the midst of a 10-year jail sentence for treason, died of a stroke while in custody. Some reports suggest he was denied access to adequate health care. Politically speaking, 2009 was an active year, as constitutional and legislative changes dominated discussions in the media and received significant international attention. Amendments to law also contained provisions that observers in the media and civil society charge will hamper the role of the press as watchdog. Article 32 amendments added protections to individual privacy; now permission is required to capture video images in people and use them in media reports. Article 50 changes mandate a right of reply for individuals in the media regardless of whether reports deemed damaging to one's reputation are true or not."



While assessing Media environment in Azerbaijan, to each of the categories IREX allocated following points in the four-point system:

Freedom of Speech: 1.74,
Professional journalism 1.68,
Plurality of News – 1.72,
Business Management – 1.62,
Supporting Institutions – 1.79

See the full report http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf

“Georgia’s rolling political theater keeps the nation’s news media from growing into democratic, professional maturity. Pressures stemming from the previous year’s economic meltdown, Russian invasion, and domestic instability continued into 2009, stunting development of the news business. Additionally, the nested doll-style media ownership systems and inferior ethical practices impair public trust in the news media.

The media reflect some plurality of viewpoints, but the media scene remains split along political fault lines, and only a few outlets maintain a critical distance from the partisan struggles. The ruling elite – insecure in the face of significant domestic and external challenges, lords it over the largest news companies to shape the national narrative. On the other side of the fence, another group of media companies marches lockstep with the political opposition. It leaves the impression that running a news business is often simply a tool to advance political ends.”



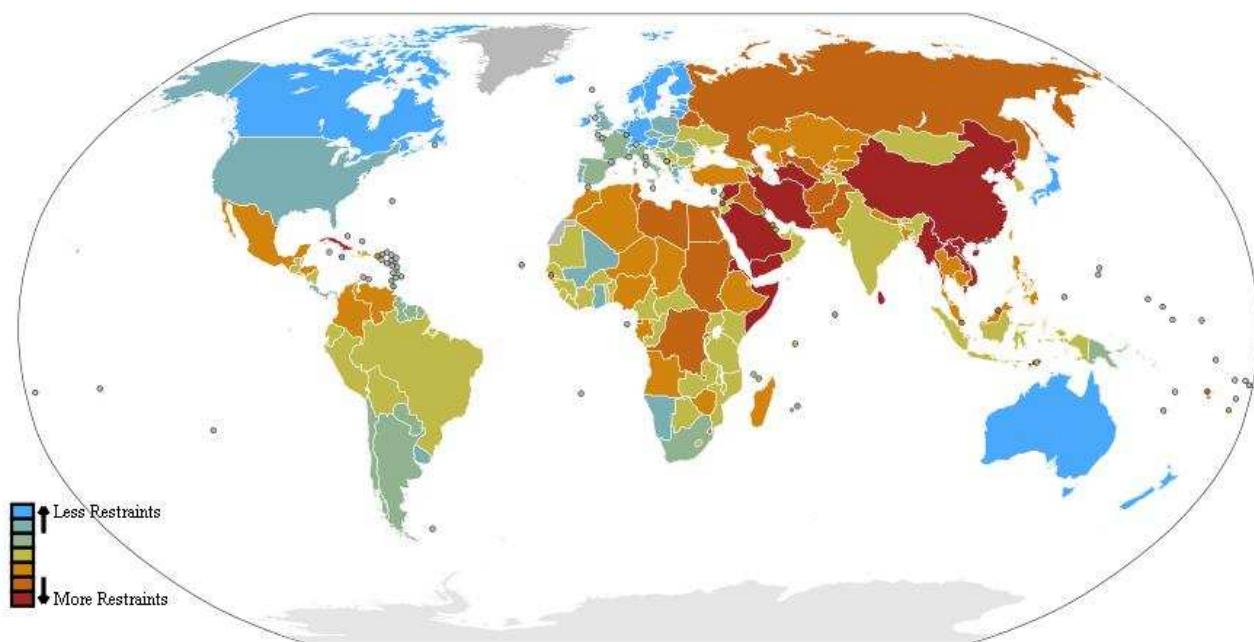
While assessing Media environment in Georgia, IREX allocated following points out of four to each of the categories:

Freedom of Speech - 2.05
Professional Journalism - 1.62
Plurality of News – 1.68
Business Management - 1.61
Supporting Institutions - 2.14

See the full report on Georgia http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Georgia.pdf



International organization defending journalists and fighting worldwide against censorship and laws that undermine press freedom - **Reporters without Borders** – released its annual Press Freedom Index. In 2009 they measured freedom of expression in 175 countries in the world. Armenia ranks 111th place, Azerbaijan - 146th place and Georgia marked 81st place.



Armenia

Based on the information provided by the Armenian Helsinki Association

While implementation of the freedom of expression and media legislation in Armenia remains worrisome, recent changes and proposed amendments to some parts of the legislation has triggered new concerns:

Insult and Libel

In May, 2010 a package of amendments to Civil Code, Criminal Code and Criminal Procedure Codes were submitted to National Assembly (Parliament) of Armenia. If approved, the amendments will decriminalize *Libel* and *Insult* and make them a civil law offence. This will be a positive development, however concerns remain regarding the amount of fines which the draft law imposes on media outlets and journalists for libel or insult. In particular, a journalist who intentionally insults a person or damages his/her reputation can be fined by 250 times the minimum monthly salary, while the same act done intentionally can cost a journalist or a mass media outlet can be fined by 1000 times the minimum monthly salary.

These amounts seem to be disproportionately high and will potentially exert a chilling effect on freedom of expression and media in Armenia.

It is also worth mentioning that the paid fine goes to the insulted person, instead of state budget.

In May the amendments were already approved by the first hearing in the National Assembly.

Deprivation of a journalist's License

On 21 August, 2009 the National Assembly of Armenia approved a new order on licensing journalists. Before that, a license of the journalist could be terminated by the application submitted by the body carrying out journalist activities, as defined by article 6 of the Law of Armenia on Mass Media. According to the order adopted a journalist can be deprived of the license if "he/she disseminates information about the activities of the National Assembly and its staff, which did not correspond to reality, which is approved by the court judgment." Experts fear that the new order of licensing contains ungrounded restrictions which can be used in order to exert pressure against the representatives of mass media.

Selective Implementation of Law

On September 10, 2008 the National Assembly of Armenia made amendments to the law on "Television and Radio", and the competition for broadcasting licenses was terminated in Armenia till July 20, 2010. The Government of Armenia based this decision on the implementation of digital broadcasting process. After that change, a number of TV and radio stations continues their activities by prolonging their licenses (without any competition for obtaining broadcasting license). While TV Station **A1+** e.g., was deprived of broadcasting after hours after losing the license.

Failure to Implement Court Decisions

"Broadcasting law amendments bring greater transparency to the licensing process. But an Independent television station that has been off air for over seven years remains without a new license despite a European Court of Human Rights ruling in its favor."

Human Rights Watch, annual report, 2010

Attacks and Violence against journalists are not properly and effectively investigated and perpetrators are rarely held accountable.

2009 witnessed violence and attacks as well as trials against journalists and media outlets in Armenia,

however, according to Armenian NGO Committee to Protect Freedom of Expression [<http://khosq.am/en>], compared to the previous year, there were fewer violations of rights of journalists and mass media in 2009.

E.g., in 2008 18 cases of physical violence against journalists were documented, there were 11 in 2009. In 2008 there were 16 documented cases of pressure on mass media and mass media representatives; in the year of 2009 the number was 14. In 2009 number of violations of the right to obtain and disseminate information decreased by one.

Anatomy of violence against journalists in Armenia

- On 16 January, 2009 a photo journalist of daily newspapers "Aravot" and "Chorord Ishkanutyun" - **Gagik Shamshyan** - was attacked while trying to carry out his professional activities by a police officer near the building of the Court of First Instance of Shengavit. Shamshyan fell down and hit his head on the ground. X-Ray expertise showed that G. Shamshyan had concussion of the brain. A criminal case was filed, which was later terminated on the ground of lack of the facts constituting or proving a crime.
- On 11 February, 2009 an incident took place between journalists and court bailiffs at the Court of First Instance of Kentron and Nork Marash districts of Yerevan. During the trial of ex- Prosecutor General Gagik Jhangiryan, judge Zhora Vardanyan instructed the bailiffs journalists to leave the court hall. A dispute between bailiffs and journalists turned into a fight; A criminal case was filed, which was later terminated on the ground of lack of the facts constituting or proving a crime.
- On 13 March, 2009 a dispute was stirred up between security officers of Yerevan State Linguistic University (during the protest of students of the university) and G. Shamshyan - a photo reporter of two newspapers- Chorord Ishghanutyun and "Aravot". According to G. Shamshyan the security officers acted rather aggressively, and then they threw him on the ground and kicked him. G. Shamshyan received serious injuries, as a result he had inner bleeding.
A criminal case was filed according to Article 164 /Impeding the professional activities of a journalist/ and Article 118 /Beatings/ of the Criminal Code of Armenia.
On 14 July criminal proceedings against those who were guilty were terminated taking into account the amnesty declared by the National Assembly of the Republic of Armenia on June 19, 2009.
- In the evening of April 8, 2009 on the Northern Avenue Davit Jalalyan, journalist of A1+ TV channel was attacked during the protest action when trying to take pictures of demonstrators and police officers.
- On 30 April, 2009 Argishti Kiviryan, coordinator of information agency "Armenia Today" was severely beaten up at the entrance of his house. He was taken to hospital with numerous serious injuries. The police filed a criminal case according to Article 117 of the Criminal Code of Armenia /Infliction of willful light damage to health/. A week later the criminal case was transmitted to the National Security Service. According to the statement issued by the National Security Service the criminal case of A. Kivoryan was re-qualified to paragraph 7, part 2 of Article 34-104 /Attempt to assassination by a group of people/. *The investigation is ongoing.*
- In the evening of May 6, 2009 two unknown men beat the journalist of "Shant" TV - Nver Mnatsakanyan and ran away. The journalist went to the hospital; a forensic-medical expertise was carried out. The results showed that the journalist had slight physical injuries. N. Mnatsakanyan was sure that the incident was directly connected with his professional activities. A criminal case was filed pursuant to point 3 of part 2 of Article 113 of the Criminal Code of Armenia /Infliction of willful medium-gravity damage to health - by a group of persons or by an organized group/ .

May 31, 2009 - Elections of the City Council of Yerevan

- At the polling station No. 9/01 an MP from the Republican party ordered his bodyguards to take away journalists Tatev Mesropyan, Marine Kharatyan and Gohar Veziryan from. As a result of a conflict Gohar Veziryan was beaten up. They took away the cell phone and voice recorder of Marine Kharatyan, the journalist of "Zhamanak" daily. The three journalists had to leave the polling station. Law enforcement officials alleged that it was G. Veziryan who attacked the bodyguards of L. Sargsyan at the moment of his voting process and violated public order.

- At the polling station 8/05 staff member of “Haykakan Zhamanak” daily Arthur Hovakimyan faced violence. He tried to record the bullet stuffing done by a group of young men. The young men took away camera and journalist's license and demanded him to leave the polling station.
- At the polling station 8/05 Armine Avetyan, journalist for “168 Zham” daily, Lilit Tadevosyan, journalist for internet publication “Tert.am” and Sona Ayvazyan, observer of “Transparency International” faced violence when they tried to prevent the ballot stuffing by a group of people. As a result of a conflict A. Avetyan received slight physical injuries. They pushed L. Tadevosyan away and prohibited her to take pictures.
- In front of the polling station 13/09 a group of young men hindered the journalists of “Liberty” radio station and “A1+” internet web site, the head of the electoral committee threatened them.
- At polling station 7/25 one of the young men attacked Nellie Grigoryan, journalist of “Aravot” daily when she tried to shoot how those men were threatening a representative of a political opposition. Noticing that the journalist was taking pictures of him, he attacked her. Then he took away her camera and ran away. Later a group of young men returned her camera back when N. Grigoryan complained about the incident, the memory card was missing however.

On 1 June, 2009 the General Prosecutor's Office of Armenia issued a statement which said that a criminal case was filed with regard to violence towards the journalists and observers during the elections. However, no one was held accountable up to date.

Azerbaijan

Problems related to Azerbaijan's press and independent mass media remained unsolved during 2009. There were journalists who passed away, physical and psychological attacks on journalists, and journalist arrests in 2009.

The executors and people behind the murder of Monitor Journal Editor-in-chief Elmar Huseynov have not been found to this day. E.Huseynov was murdered in 2005. The indifference of Azerbaijan's administration to countless calls from civil society to erect a monument in honor of Elmar Huseynov reveals the negative attitude of the government towards him. As a result, there's no improvement in the investigation being conducted into the journalist's murder. The Republic of Azerbaijan National Security Ministry has been giving standard answers in connection with the investigation into Huseynov's death. A representative from the NSM recently stated “The search for Georgian citizens who are suspected in the killing of Elmar Huseynov continues.”

Despite calls from local and international organizations, the government did not realize the decriminalization of defamation. As a consequence, journalists were convicted for articles 147 (libel) and 148 (insult), which oversee the imprisonment of journalists, and were thrown into jail.

Attacks against independent media took its start from the beginning of the year. The broadcasting of three foreign radio stations – Radio Liberty, VOA and BBC via local FM frequencies were shut down on 1 January because of the government's intolerance for freedom of speech.

At the end of the year a drug provocation was exercised against imprisoned editor-in-chief of Gundalik Azerbaijan and Realniy Azerbaijan newspapers.

On 17 August 2009, Tolishi Sado (Voice of Talysh) Newspaper Editor-in-chief, 68 year old Novruzali Mammadov died in the Justice Ministry Penitentiary Services' Central Hospital due to a failure to provide him with necessary treatment by authorities. Another journalist – Mushfig Huseynov, who suffers from severe form of TB, would have faced the same fate had he not been released under a presidential pardon decree in December.

Since 2009 was the year of municipality elections, the government employed all means to undermine the role of independent mass media. Changes and amendments made to the Constitution and other legislative acts served to restrict the work of media.

Although Azerbaijani government claims that there are 1300 newspapers in the country, about ten opposition newspapers are published in Azerbaijan. The circulation of these newspapers does not even secure access to information for 1% of population. The TV and Radio sector remains under de facto governmental supervision.



Source: [Institute for Reporters Freedom and Safety](#)

April 23, 2010

Request for immediate and unconditional release of Eynulla Emin Fatullayev

Members of the Human Rights House Network call upon the Azerbaijani authorities to immediately execute the decision of the European Court of Human Rights from 22 April 2010 in the case 'Fatullayev v. Azerbaijan' (application no 40984/07), to release the journalist from detention and compensate him for the damages he has suffered.

In 2007, Mr Fatullayev was convicted of defamation. Later that same year, he was convicted of threat of terrorism for articles he had written. The total sentence imposed on him amounted to eight years and six months' imprisonment.

In view of the above convictions, Mr Fatullayev brought a complaint to the European Court of Human Rights. On 22 April 2010, the Court found that both convictions of Mr Fatullayev constituted a breach of Article 10 of the European Convention of Human Rights. The imposition of a prison sentence was not proportionate and violates the right to freedom of expression. Moreover, the Court found that the trial was not heard by an impartial tribunal as the criminal case was examined by the same judge who had previously ruled in the civil action against Mr Fatullayev. Furthermore, the Court noted that the trial did not observe the presumption of innocence, as a public official made a statement concerning the journalist's guilt before he had been found guilty. Hence, the Court found Article 6 § 1 and 2 of the Convention to have been violated.

The European Court of Human Rights under Article 46 of the Convention urges the Azerbaijani authorities to release the applicant immediately and compensate him for non-pecuniary damage and for the costs and expenses related to the trial.

Taking into account the Court's judgment, members of the Human Rights House Network request an immediate and unconditional release of Mr Fatullayev. We ask the authorities to take into account the statement of the court, which emphasizes that the press has a vital role of a public "watch dog" in a democratic society. The court decision must not be seen in isolation, but should set a precedent for other charges against journalists. It is a call to Azerbaijani authorities to decriminalize defamation.

The Helsinki Foundation for Human Rights in Poland:
The Obserwatorium
The Human Rights House Foundation
The Norwegian Helsinki Committee

For further information on freedom of expression and media in Azerbaijan see Reports by Media Rights Institute:

Legal status of the mass media in Azerbaijan:

<http://www.mediарights.az/index.php?lngs=eng&id=45>

Annual Report on Status of Mass Media, 2009, Azerbaijan:

<http://www.mediарights.az/index.php?lngs=eng&id=25>

Annual report - Freedom of Information, 2009, Azerbaijan:

<http://www.mediарights.az/index.php?lngs=eng&id=26>



On 3rd of May, the International Press Freedom Day, in the press centre of the Institute for Reporters' Freedom and Safety (IRFS), a roundtable was held on the theme "Is there need for State Regulation on the Internet in the 21st Century?"

Participants noted that the Internet regulation is not a welcome purpose, and that the administration is concerned about the increased number of people joining social networks.



The statement issued by the roundtable participants reads:

*Today the situation of freedom of speech in Azerbaijan creates big concern; Editor-in-chief of Gundelik Azerbaijan and Realiy Azerbaijan Newspapers **Eynulla Fatullayev**, bloggers **Emin Milli** and **Adnan Hajizade** remain imprisoned over trumped-up charges. The executors and people behind **Elmar Huseynov's** murder have not been found to this day. Huseynov was slain on 2 March, 2005.*

FM broadcasts of Radio Liberty, BBC and VOA were shut down, electronic media outlets operate under control of the government, necessary conditions to open new TV and radios in Azerbaijan do not exist, and the right of people who have these initiatives are not secured.

The Monitoring results have shown that TV channels do not secure political pluralism, objectivity, or freedom of opinion; and do not follow principles envisaged in local and international laws.

The statement was signed by:

Novella Jafaroglu, Chairperson of the Defense Society for Women's Rights named after Dilara Aliyeva
Saadat Bananyarli, International Human Rights Society National Committee Chairperson
Saida Gojamanli, Chairperson of the Bureau for Human Rights and Defense of Rule of Law
Ilgar Mammadov, RE:AL Citizen Union Co-founder
Natig Jafarli, RE:AL Citizen Union Co-founder
Rovshan Hajibeyli, the School of Democratic Journalism
Shahvalad Chobanoglu, well-known journalist
Mehman Aliyev, "Turan" Information Agency Director
Sanubar Heydarli, 10 December Youth Organization Co-founder
Nahid Ismayil, 10 December Youth Organization Co-founder
Vafa Jafarova, AN Network Representative
Rashid Hajili, Media Rights Institute Director
Khalid Agailiyev, Media Rights Institute Program Coordinator
Emin Fatullayev, father of the Editor-in-chief of Gundelik Azerbaijan and Realiy Azerbaijan Newspapers Eynulla Fatullayev
Azer Aykhan, Yeni Musavat Newspaper Deputy Editor-in-chief
Alasgar Mammadli, IREX Azerbaijan
Idrak Abbasov, IRFS
Emin Huseynov, IRFS
Rasul Jafarov, Center for Television and Alternative Media Development Chairman

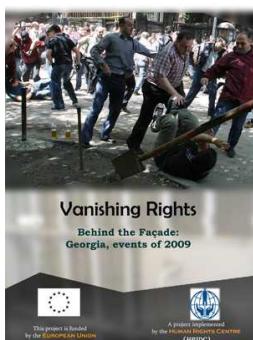
See further <http://www.caucasusnetwork.org/index.php?a=main&pid=185&lang=eng>

Georgia

"Government control of media, lack of editorial independence and self-censorship among journalists and media outlets persisted throughout 2009.

Cases of illegal interferences into journalists' activities, physical attacks and other forms of intimidation and pressure on journalists continued to go largely unpunished. The climate of impunity, created over the years in Georgia, further encouraged perpetrators and proved to have a chilling effect on media freedom and expression in Georgia.

Unfounded denial or unjustified delays in supplying public information to journalists was reported as a widespread problem, especially in the regions.



Un-transparent ownership, media concentration and unfriendly market condition continued to jeopardize possibilities for developing independent and self-sustainable media in Georgia. A positive note, political decision was made by the president to allow civil society representatives occupy several seats in the GPB board, although it has had a little influence on the overall landscape of the media situation in Georgia. In general, problems with the independence of the media in Georgia remained closely linked with the level of democracy in the country and the existing political culture. Without improving the two, transforming the Georgian media into an independent watchdog institution proves to be largely impossible."

Source: Annual Human Rights Report by the Human Rights Centre – *Vanishing Rights*



Statement on the International Day of Freedom of Expression May 3, 2010

On May 3rd, the international day of freedom of expression, the members of the South Caucasus Network of Human Rights Defenders in Georgia – Human Rights Center, Article 42, Center for the Protection of Constitutional Rights and Multinational Georgia - express their deep concern over the fact that journalists represent one those groups of human rights defenders in Georgia, who most often face pressure and intimidation from the authorities.

Death threats, threats and intimidation against family members, physical and verbal abuse (often directly involving state officials), pressure to disseminate and/or abstain from disseminating certain information, artificially hindering distribution of critical newspapers, arbitrary inspections and imposition of fines by tax inspection authorities on media outlets and impunity for those acts are among methods used for silencing public watchdogs in Georgia. Denial of access to public information has become a systematic problem. Although the law allows appealing a denial of public information in courts, expenses to be incurred by the applicant constitute a serious barrier for pursuing journalists' interests in courts. Moreover, state organs so often deny public information to journalists or provide inadequate answers to their public information requests, that it exceeds available human resources to litigate each and every case before the courts; it would imply that journalists do nothing, but appeal those cases in the court.

Use of "softer" means to tame critical media further creates challenges. These include political control and interferences within the advertisers' choices to place their advertisements in certain media depended on the safety" of their content i.e. their political acceptability for the government, as well as selective approach of some government representatives cooperating only with those journalists and media outlets who take a pro-government position. Investigative journalists have been facing particularly severe pressure during the last years.

Recent examples of pressure and intimidation of journalists are the cases of **Vakhtang Komakhidze** (2010), an investigative journalist who received death threats after publicly announcing that he was working on a documentary

about the August war 2008,¹ the case of **Saba Tsitsikashvili** (2010) who was physically abused, when the journalist was trying to obtain public information, and obstructed from carrying out his professional activities in the premises of Shida Kartli Regional Administration by the guards of the administration, pressure by law enforcement officials against journalists of a regional magazine “**Batumelbi**” - **Tedo Jorbenadze and Natia Rokva** (2009), 3 etc. Journalists faced pressure, physical and verbal abuse by state officials as well as some demonstrators during spring-summer demonstrations in Tbilisi (2009); some representatives of law enforcement bodies were involved in severe violations of journalists’ physical security and integrity during the demonstrations.

Human Rights Center, Article 42, Center for the Protection of Constitutional Rights and Multinational Georgia call upon the Georgian authorities to:

- Ensure safe and enabling environment for journalists;
- Ensure accessibility of public information to journalists;
- Prevent all forms of pressure and illegal interferences in journalists’ activities;
- Investigate incidents against journalists effectively and ensure accountability of perpetrators.

Challenges in the realization of the right to seek, receive and disseminate information

The case of Vakhtang Komakhidze (2010) - Death Threats

On February 10, 2010 Vakhtang Komakhidze, a head of an NGO “Studio Reporter” and a well-known investigative journalist in Georgia reported to have received death threats after publicly announcing that he was working on an investigative movie about the Russia – Georgia war of August 2008.

According to a letter sent by him to an internet-based newspaper Presa.ge, Komakhidze sought for a political asylum since his “professional activity was being restricted in Georgia and the freedom, health and lives of [his] family members and [his own life] was under threat.”

“This hardest decision was preconditioned by direct aggressive threat excreted by the authorities. I have been unambiguously hinted that in case I carry on my activities, the life of my family members or me would be in danger.” read the letter.



Visit to an occupied territory

In **December 2009**, together with Ms. Manana Mebuke and conflict scientist Mr. Paata Zakareishvili, Mr. **Komakhidze** visited de facto South Ossetia, met with NGOs, conflict-effected families and Mr. Kokoity, a leader of the de facto South Ossetia.

After the visit, Mr. Komakhidze announced publicly that he was working on a documentary about the Russia-Georgia war in 2008; he also stated that he had gathered some materials for the documentary

during his visit. Mr. Komakhidze stated that the documentary would disclose many issues yet unknown to the public, e.g., omission of the Georgian government to take measures for the protection of its civilian population in the war. *Komakhidze stated, e.g., that two days before the war, on August 6, the State Minister of Georgia negotiated the evacuation of the grandmother of Ms. Alana Gagloeva, an employee of the President’s press-service, with South Ossetian de-facto authorities. However, at that time, the Government left the Georgian population completely unprotected in the hands of the Russian army.*

Komakhidze was subjected to a smear campaign in certain media outlets.

Death Threats

Several days after coming back a stranger stopped Mr. Komakhidze and said that he wanted to warn him against his activities, that it would be better for him and his family not to bother Georgian authorities. He added that the only way out for him and his family would be to leave the country and stop filming.

In January Komakhidze had planned a trip to Switzerland to film and interview the representatives of the *de facto* government of South Ossetia in a third country. Early morning on January 28, 2010, Komakhidze was in Tbilisi international Airport about to leave for Switzerland, six to seven persons sat down next to him at the airport. One of them was the head of the Constitutional Security Department of the Ministry of Interior. The men started having an aggressive conversation on Mr. Komakhidze, and one of them told him that it would be good for him that he was leaving the country.

On February 9, 2010 it became public information in Georgia that Mr. Komakhidze had requested for political asylum.

Government reaction

According to media.ge state officials denied reports about Komakhidze having received death threats from its employees. David Paitchadze, an anchor of a TV-program *Dialogue* broadcasted on the Georgian Public Broadcasting (First Channel) asked the Head of the Georgian Interior Ministry's Information and Analytical Department whether the special service staff was spying on Vakhtang Komakhidze at the Tbilisi International Airport when he was leaving for Switzerland. Utiashvili admitted that the Ministry of Interior staff was present at the airport but stated that it had nothing to do with the fact of Komakhidze's departure.

Public Defender of Georgia as well as a representative of the Parliamentary Committee on Human Rights stated that Komakhidze did not address them about his case.

Reaction of broader public and other stakeholders

On February 13 up to 100 people including journalists, NGO representatives, experts and some members of opposition political parties took part in a rally in front of the Embassy of Switzerland in Tbilisi in support of Komakhidze and freedom of expression.

In the course of a one-hour rally the journalists were holding posters: "Solidarity to Vakho Komakhidze,"

Vakhtang Komakhidze

Mr. Komakhidze runs an NGO Studio Reporter, which has produced a number of documentaries exposing grave human rights violations committed or condoned by the Government of Georgia, falsified elections, corruption, political prisoners etc. Among other films, Mr. Komakhidze is an author of a documentary investigating circumstances of Prime Minister Zurab Zhvania's death five years ago, casting serious doubts over official preliminary conclusions (officially the investigation is still ongoing) that the late Prime Minister died of carbon monoxide poisoning caused by an out of order gas heater. Mr. Komakhidze is a winner of several media awards at the national level.

Since 2008, "Studio Reporter" is a member of the South Caucasus Network of Human Rights Defenders.

In March 2004, Mr. Vakhtang Komakhidze was severely beaten up by police officers in Adjara Autonomous Republic, on his way back to Tbilisi, as he was working on a film about illegal activities carried out by Mr. Aslan Abashidze's relatives. Mr. Abashidze was the leader of Adjara Autonomous Republic from 1991 to 2004. Despite the fact that some time after the incident Mr. Komakhidze himself identified one of the attackers and reported him to the authorities, the incident has not yet been investigated as up to date.

"Free Speech is Persecuted."

Participants of the rally signed an appeal addressed to the Swiss Embassy to Georgia. Signatories call upon the Embassy to render assistance to the Georgian journalist. Rallies to support Vakhtang Komakhidze were held in Batumi and Akhaltsikhe too. In addition, some representatives of regional media outlets collected signatures to be sent to the Embassy of Switzerland.

The *South Caucasus Network of Human Rights Defenders* as well as well-known international organizations ARTICLE 19, FrontLine, Observatory for the Protection of Human Rights

Defenders a joint programme of the World Organisation Against Torture - OMCT and the International Federation for Human Rights - FIDH), Human Rights House Foundation, Norwegian Helsinki Committee prepared a joint statement condemning the pressure excreted on Komakhidze, called upon Georgian authorities to promptly and effectively investigate the incident and to hold the perpetrators accountable.

Current status of the case

Komakhidze is currently in a refugee camp in Switzerland. The case for a political asylum is pending.

The Case of Tedo Jorbenadze, (2009): physiological pressure and threats against a journalist

A regional newspaper "Batumelebi" reported that on November 25, 2009 the representatives of the MIA Special Operation Department (SOD) of Adjara exerted moral and physiological pressure on Tedo Jorbenadze, a journalist and a Coordinator of the "Batumelebi" investigative team to make him start cooperating with the SOD. To exert pressure SOD officers tried to use stigma against sexual minorities widespread in Georgia.



On November 25, at around 19:00 near the adjacent area of "Batumelebi" office Tedo Jorbenadze was met by SOD staff who told him that they had some questions over some private issues to be thoroughly discussed at the department and asked him to follow them to the department. Jorbenadze replied he had planned a business meeting and promised them to visit the department a little later that day. Meanwhile he informed the editor in chief of the newspaper about this talk with the SOD department.

At the moment he received a mobile call (the number is identified) being notified he was awaited at the department. During the phone conversation Jorbenadze was clarified the case referred to his

sexual partner. Jorbenadze went to the SOD office accompanied by Eter Turadze, the editor-in-chief of the newspaper and Mzia Amaghlobeli, deputy editor. At around 20:00 they reached the office. Mr. Jorbenadze was asked to go alone up to the fourth floor. Following his refusal to the request, two people (one of them having met him earlier in the street) came out and made him enter the ground floor of the building. Mrs. Turadze and Mrs. Amaghlobeli were not allowed to enter the building.

In one of the offices of the SOD, Tedo Jorbenadze was shown black and white printed photos featuring men in underwear and was told that one of the peoples in the photos was him. After this Jorbenadze received an offer to start cooperating with the SOD since special services of specific countries, in particular Russia and Turkey, were interested in the newspaper and therefore his help and cooperation with the SOD was needed. In response to his refusal, SOD officials threatened the journalist that those photos and some video material would be sent to his ill father, colleagues and uploaded on the Internet. Following the dissemination of those shots, the officers asserted he would lose his job or no one would grant him interviews.

Jorbenadze said he wouldn't be threatened through the dissemination of edited shots and left the building.

Few minutes later Tedo Jorbenadze received a phone call from the same number asking him to get back to the building together with the tow women. All three of them were taken up to the forth floor of the building. Eter Turadze asked whether a lawsuit had been instituted against Tedo Jorbenadze. The response was negative.

The Case of "Batumelebi" Newspaper: applying financial sanctions to hinder journalists' professional activities (2009)

On August 15, 2009 editor-in-chief of "Batumelebi" newspaper, **Eter Turadze** and deputy-editor **Mzia Amaglobeli** crossed the Georgian-Turkish border to conduct a journalistic investigation about the customs clearance procedure, since journalists had been reported by some citizens that the customs clearance procedures were often conducted with certain violations.



In the course of their professional activities the

customs staff demanded the journalists to quit their work and leave the territory, alleging that the journalists were hampering their work. The custom staff did not clarify the legal ground for such a demand to Turadze and Amaglobeli, despite were not asked the officers to explain a legal for such a demand, and they were charged with the disobedience to the legal demand and were fined by a GEL 1,000 each.

Critical Feedback during a Radio Program

During the conversation the special service representative told Eter Turadze that Jorbenadze didn't deserve working at the newspaper for being "unscrupulous."

The newspaper editor said she wouldn't let anyone, including special service staff, insult her colleagues. In addition, according to media.ge the SOD staff told the newspaper management they talked delicately due to respect to the newspaper, unless otherwise "Tedo would have been brought to the department in a different way."

Ongoing Investigation

The investigation in the case is ongoing by Adjara Prosecutor's office. Tedo Jorbenadze has not however been granted the status of a victim as to date, but has been questioned as a witness of the incident

Reaction of broader public and other stakeholders

On December 1, 2009 a rally was held in Tbilisi in support of "Batumelebi" and freedom of media in Georgia. Around 100 journalists, bloggers, human rights watchdogs and representatives of political opposition representatives attended the event.

International human rights groups, such are e.g., Norwegian PEN, the Human Rights House Foundation and the Norwegian Helsinki Committee, as well as South Caucasus Network of Human Rights Defenders uniting 30 human rights NGOs in the region, condemned the pressure exerted on the journalist and media outlet and called for impartial and prompt investigation.

The "Batumelebi" appealed the decision first at the Revenue Service of the Ministry of Finance and afterwards at the court to declare the fine as void. On February 4, 2010 the Tbilisi City Court refused to satisfy the complaint.

Georgian Young Lawyer's Association, who represents the interests of the journalists, assessed the decision as a form of indirect censorship which is incompatible with Article 24 of the Constitution of Georgia.

The Case of Zviad Khujadze (2009): Revenging a journalist for a critical feedback

Zviad Khujadze, the editor of the information service at the radio station "Old Town" was physically abused and threatened by the Head of the Department of Culture, Monuments Protection and Sport at the Kutaisi Mayor's Office, Gizo Tavadze.



In May 2009, Zviad Khujadze hosted a radio program at the radio station "Old

Town." The topic of the discussion was a film "Grandfather from Kutaisi" by **Gizo Tavadze**. A journalist - Medea Chogovadze and a young poet - George Khasaia also participated in the discussion. During the discussion the film received negative feedback from the guests and from some listeners who called in the studio while the discussion was ongoing and expressed their views publicly.

Due to the negative feedback on his film, Tavadze became aggressive during the discussion. After the radio program was finished, he approached the program host and asked him to disclose the number of the person who called in during the discussion and criticized the film. When the host replied that they usually do not keep the numbers of their listeners who call in the studio, Tavadze boasted that he would anyway find out the number through the security services.

Threats and Abuse

Several days after, on May 16, 2009, Tavadze called Khudjadze (the journalist) and asked for an appointment. After working hours Tavadze picked him up on his car to have a talk. Tavadze told the journalist that he was unhappy with Khudjadze talking about him behind his back although Khudjadze clarified to him that whatever he thought about Tavadze's work, he was criticizing publicly. Since the journalist noticed that Tavadze was about to leave the city, he tried to convince him to turn the car back and not to commit any 'stupid act.' In that

moment the journalist also warned Tavadze that if he was not going to stop the car immediately, he was calling a patrol police. This made Tavadze angry and without stopping the car, punched the journalist into his face and dropped him out of the car.

According to Khujadze, he had felt pressure afterwards, from Tavadze's public comments and articles as well. Khujadze claims that Tavadze's activities were directed at preventing him from further criticizing the later.

Terminated Investigation

On May 16, 2009 authorities opened the investigation into the incident under article 118 (intentionally causing light damage to health). Khudjadze and his advocate from Georgian Young Lawyers' Association made a submission requesting authorities to handle the case as falling under article 154 (illegal interference within journalist's professional activities). The submission was rejected on August 6, 2009. On March 23, 2010 preliminary investigation into the case was terminated.

The case is pending before Tskaltubo regional Court under 118 of the Georgian Criminal Code.

Journalists fall victims of violence while covering police brutality (2009)

On April 6.2009 journalists Ana Khavtasi and Nino Komakhidze of "Versia" newspaper were physically assaulted at an opposition protest rally in front of the Public Broadcaster's building. Law enforcement officials issued an order to disperse participants of the rally. Ana Khavtasi was taking pictures as the policemen reportedly were beating the demonstrators. Allegedly, the police decided to take her camera away, but both journalists resisted. The police hit Khavtasi in the forehead and pulled Komakhidze's hair. The journalists managed to keep the camera and printed the photographs on the front page of Versia the following day. MPs condemned the incident. No investigation followed.



On the pictures: June 15, 2009, Tbilisi – police uses excessive force to disperse demonstrators

Courtesy photos: **InterPressNews**

On June 15, police assaulted journalists covering a demonstration of the non-parliamentary opposition outside of Tbilisi police headquarters. Crew of opposition-leaning Maestro TV and Kavkasia TV were attacked during the incident. Zurab Kurtsikidze from the European Pressphoto Agency was beaten. Police seized video and photo cameras from a number of journalists and erased their footage and photographs.



On June 16, a spokesman for the Ministry of Internal Affairs acknowledged that its forces had attacked

journalists and apologized for the incident. Equipment seized by police was returned to the journalists, including a camera belonging to a Reuter's correspondent in Tbilisi.

The spokesman for the Ministry of Internal Affairs said that the ministry had concluded an internal investigation into the case and that two employees were severely reprimanded, four employees were reprimanded, and three were suspended from duty pending further investigation. The names of those employees were not made public, however, and remain secret to this date. Results of further investigation similarly remain unknown to the public.

The Case of Saba Tsitsikashvili (2010 and 2008): physically abusing a journalist to deny his access to public information

On **January 22**, 2010 journalist **Saba Tsitsikashvili**, regional correspondent of Human Rights Center and editor of the regional newspaper "**Kartlis Khma**" (Voice of Kartli) was subjected to abuse and harassment by regional security guards in Shida Kartli. The guards abused Tsitsikashvili physically and verbally and obstructed him from carrying out his professional activities.

The incident occurred when the journalist visited the office of the regional administration to obtain public information concerning administrative-organizational expenses spent by the regional administration in 2009. The journalist had officially requested the public data several days before in accordance with Georgian legislation.

When he entered the regional administration building, **the security guard** blocked his way. Security guards assaulted Tsitsikashvili physically and verbally, forcibly kicked him out of the building and obstructed him from carrying out his journalistic activities. (Punishable under article 154 of Criminal Code of Georgia: illegal obstruction of journalist's professional activities).

The journalist relates the incidents to generally hostile attitude of the Shida Kartli regional administration towards his professional activities and the latest action of December 15 2009. More specifically, on that particular day Shida Kartli Regional Governor Lado Vardzelashvili presented an annual report of the work carried out by the regional administration to foreign ambassadors and NGOs. 10 minutes before the presentation Tsitsikashvili distributed copies of his article among the guests. The article reported about bonuses and other illegally taken financial allowances by the regional governor. This caused a serious dissatisfaction of the regional authorities and as Tsitsikashvili believes, resulted in the incident of January 22.



*Article published by Human Rights House Foundation about Tsitsikashvili at
<http://humanrightshouse.org/Articles/13189.html>*

This is not the first case when Saba Tsitikashvili is harassed and assaulted by representatives of regional authorities; In 2008, after the August Russian-Georgian War he received several life threats and was physically assaulted by the deputy regional governor of Shida Kartli, Zurab Chinchilakashvili. At the end of 2008 the situation became critical and Tsitsikashvili had to temporarily leave the country with the assistance of the South Caucasus Network of Human Rights Defenders, FIDH and the Human Rights House Network.

It is noteworthy that one of the security guards involved in January 22 incident was the same person who assaulted Tsistikashvili during the past incidents in 2008. This is a clear indication that impunity for previous abuses encourages offender to further commit illegal acts.

For the challenges encountered during his professional activities, the courage and commitment he has displayed while facing them, Tsitsikashvili was nominated for the Index on censorship award by the HRH F in December 2009.

Getting credit for protecting free expression

The head of Azerbaijani Media Rights Institute, member of the Network, received prestigious award

On 25 March, in London, a presentation ceremony was held for the 10th **Freedom of Expression Award** of “**Censorship index**”. Azerbaijani lawyer, Media Rights Institute Head **Rashid Hajili** received the Law and Campaigning award. This award is given to lawyers or campaigners who have fought repression, or have struggled to change political climates and perceptions.

Azerbaijani Media Rights Institute head receives award On 25 March, in London, a presentation ceremony was held for the 10th Freedom of Expression Award of “Censorship index”. Azerbaijani lawyer, Media Rights Institute



Head Rashid Hajili received the Law and Campaigning award. This award is given to lawyers or campaigners who have fought repression, or have struggled to change political climates and perceptions. Sunday, 04 April 2010, by HRH London, based on Index on Censorship, www.indexoncensorship.org Rashid Hajili expressed his gratitude for being honored with this prestigious award. “A country where freedom of speech is suppressed cannot have a positive image in the international community”, said Rashid Hajili. “A Lack of tolerance to criticism means that democratic principles and values do not function in this country.”

Activity

The award is given to people who risk their lives and speak out about taboo topics. Rashid Hajili is the chair of the **Media Rights Institute** in Azerbaijan, which monitors free expression and works for the protection of journalists and bloggers. In a country with an ever-worsening record on press freedom, Hajili is one of a small group of individuals who defends the rights of journalists and advocates for greater access to information. He has defended a number of prominent journalists, including imprisoned editor Eynulla Fatullayev.

A leading voice in the campaign for media law reform in the country, Hajili is a prolific writer and tireless campaigner, who has drafted legislation on protection of sources and broadcasting freedom. In December 2009, he worked with the organisation Article 19 on a case in the European Court of Human Rights to decriminalise defamation.

The **Media Rights Institute** has been operating in Azerbaijan since 2002 and is engaged in legal defense of media representatives subjected to pressure and prosecution for freedom of expression.

Media Rights Institute is a member of the South Caucasus network of Human rights Defenders and a partner organization of the Human Rights House Baku.

Source: **HRH London, based on Index on Censorship**



What Does the South Caucasus Network Do to Protect Journalists?



The South Caucasus Network of Human Rights Defenders supports journalists and free speech activists at risk by providing financial, legal and medical support and safe shelters.

The Network nominates and also itself awards journalists for their professional and courageous work on human rights and freedoms in the South Caucasus.

The Network seeks to facilitate creation of a safer and enabling environment for human rights defenders in Armenia, Azerbaijan and Georgia. By increasing cooperation and solidarity among defenders, the Network also seeks to strengthen voices of human rights defenders at national and regional levels and increase their visibility internationally. The Network provides a regional platform for defenders from Armenia, Azerbaijan and Georgia to join their voices and resources for strengthening each other and reaching their common goal – making human rights real.

- The Network offers legal, physiological, medical and financial support to persecuted human rights defenders or those at risk, including immediate evacuation and assistance in obtaining temporary residence or seeking asylum in a safer country.
- The Network monitors policy, legal and security environment affecting defenders /NGOs and their work as well as human rights and freedoms in general. The Network monitors trials against human rights defenders to evaluate compliance of each individual trial with national and international standards of fair trial and procedural as well as substantial justice.
- The Network holds various actions and issues joint statements to raise public scrutiny on the governments' policies and actions in the three countries and to attract national and international public attention to important human rights issues in these countries (e.g. freedom of media, illegal persecutions on political or other grounds, detention and harassment of journalists, etc.)
- The Network is involved in international lobbying and advocacy with EU, CoE, OSCE/ODIHR, UN, policy makers, diplomatic missions and other relevant stakeholders and seeks to:
 - increase protection and promotion of human rights and individual freedoms in Armenia, Azerbaijan and Georgia.
 - give higher visibility to local human rights defenders and to their work in the field of protection and promotion of human rights and freedoms

Members of the South Caucasus Network of Human Rights Defenders specifically focusing on freedom of expression and the media:

Armenia: [Asparez, Journalist Club, Gyumri Region:](http://www.asparez.am/) <http://www.asparez.am/>

Azerbaijan: [Institute for Reporters' Freedom and Safety:](http://www.irfs.az/) <http://www.irfs.az/>
[Media Rights Institute:](http://www.mediарights.az/) <http://www.mediарights.az/>

Georgia: [The Human Rights Center:](http://www.humanrights.ge/) www.humanrights.ge
[Studio Reporter](#)

How Well Are Defenders Protected in the South Caucasus?

...Violations of the rights of human rights defenders merit special attention; as such violations may indicate the general situation of human rights in the state concerned or deterioration thereof...

The Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities (6 February, 2008)

A new report reveals cases of pressure and intimidation against defenders in Georgia

The Human Rights Center (Georgia) published a new report "*(Not) To Enquire, (Not) To Record, (Not) To Expose*" which documents challenges and constraints faced by journalists, lawyers, NGO activists and others when speaking and standing up for human rights and freedoms in Georgia.

The report maps and analyses key trends and patterns and marks emblematic cases revealing the methods used against defenders enquiring, recording and exposing human rights violations, practices of corruption, nontransparent decision-making, undemocratic governance, etc.

“During the last two years human rights defenders in Georgia have faced death threats, threats of imprisonment based on fabricated charges (e.g. espionage), physical and verbal assault, irregular inspections by state organs, stigmatization and smear campaign in media and by high ranking officials. In some cases certain state officials were personally involved in such acts.”

Impunity and **lack of effective investigations** into documented cases of attacks and pressure against human rights defenders, lack of rule of law and **selective application of justice**, marginalization and powerless situation of defense lawyers and human rights advocates under the environment of executive control over the judiciary and **financial vulnerabilities** have been marked as serious obstacles which defenders systematically encounter while protecting and promoting human rights and freedoms in Georgia.

The report also focuses on **restrictive laws** which unjustifiably limit defenders access to certain places and/or limit their ability to document questionable practices and violations of laws and human rights.

“A blanket ban on video and audio recording in the courtroom provides a significant obstacle for journalists as well as for defense lawyers in documenting different irregularities taking place in the court room and raising public awareness about them. ”

Among the situations where defenders are particularly vulnerable the report identifies **elections** – including pre-election period as well as the actual day of casting votes, and **war**.

“Political leadership has been skillfully using the post war situation and ongoing occupation of the part of Georgia’s territory by Russia ... for silencing critical voices and discrediting them in the public eye.”

The report also focuses on the relationship between **media** and **human rights defenders**: deficit of freedom especially in Georgian electronic media negatively effects **defenders’ capacities to reach out** to citizens and provide them with information on different human rights programs, raise people’s awareness about their rights and available mechanisms for realizing these rights and inform them about human rights concerns and violations documented by defenders.

Another important feature of media-defender’s relationship is involvement of media, associated with certain organs of the authorities or officials, in **smear campaign** against defenders.

“Defenders working to expose and seek remedies for human rights violations committed in relation to the Russia-Georgia War of 2008 were particularly targeted.”

The report also states in the end that:

“Reports about pressure and intimidation against human rights defenders are expected to increase as elections are approaching.”

International Foundation for the Protection of Human Rights Defenders – **FrontLine** in its annual report for 2009 identified key trends of challenges and constraints faced by human rights defenders around the world. Countries of the South Caucasus region came under scrutiny several times:

The **stigmatisation** of **human rights defenders** is also a trend that has continued to increase in **2009**. In many countries around the world, governments do not recognise the legitimacy of the work of human rights groups or individual HRDs, and use labels in order to discredit them and foment public hostility. The specific labels used depends on the culture, the history and the political context of each country. HRDs were named communists or terrorists in Colombia, India, the Philippines, and Turkey; anti-patriotic or pro-Western in Serbia, Zimbabwe and former Soviet countries including **Armenia**, **Azerbaijan**, Belarus, **Georgia**, the Russian Federation, Uzbekistan and Turkmenistan; as separatists in Indonesia, particularly West Papua.

In 2009, Azerbaijan, Ethiopia, Georgia, and Jordan passed new legislation restricting freedom of association and assembly, thus joining this negative trend which is particularly pronounced in Africa and former Soviet countries.

In **Armenia**, human rights defenders and independent journalists continued to be **threatened** and **attacked**. **Legislative amendments** imposing strict government control upon NGOs were pending before parliament at the time of writing. In **Georgia**, amendments to the Law on Assembly and Manifestations in 2009 were used by state officials to restrict freedom of peaceful assembly. In **Azerbaijan**, **freedom of expression** continued to be **limited**. Two bloggers were assaulted by unknown men for 'criticizing the leadership of the country'. When they reported to the police, they were arrested and charged with 'hooliganism' and 'infliction of minor bodily harm', and in November they were sentenced to two and half and two years imprisonment respectively.

Whether or not freedom of association and assembly are restricted, the authorities increasingly used other **pieces of legislation to harass HRDs**. This has resulted in the use of **trumped up charges** ranging from terrorism, subversion and hooliganism to fraud, defamation and tax evasion. Such cases are standard practice in many countries and have been reported in 2009 in **Azerbaijan**, Bahrain, Belarus, India, Indonesia, Uzbekistan, and Zimbabwe. In Uzbekistan, for example, the authorities have continued to sentence HRDs for crimes such as fraud, theft or tax evasion. This practice has become extremely common and gives to the general public an appearance of justified prosecution as the charges may seem unrelated to the defenders' human rights work.

Defenders meet Diplomats

Armenia:



On **April 6**, 2010 OSCE/ODIHR Director Ambassador **Janez Lenarcic** and OSCE/ODIHR Human Rights Adviser **Benjamin Moreau** met with the Network members from Armenia. Representatives from the **Human Rights House Foundation**, international partner of the Network, and **Human Rights Center**, coordinator in Georgia, also participated in the meeting.

Armenia also focused on post-election violence in 2008 and subsequent persecutions against the political opposition. The results of the Trial Monitoring Project carried out by the ODIHR in the aftermath of those events were also discussed by the participants.

At the end of the meeting, Ambassador Lenarcic expressed interest in continuous cooperation with the Network.

The Network members updated OSCE/ODIHR about the **situation of human rights defenders** in the South Caucasus and the work of the Network. The members from

Georgia:

On **March 10, 2010** the **British, French and US Ambassadors** visited the Human Rights Center (HRIDC) and meet with human rights defenders and journalists to discuss the **situation of human rights defenders** in Georgia.



Protection and Realisation of Human Rights in the South Caucasus

Armenia

Helsinki Association's annual human rights report exposes key trends and patterns of human rights violations in Armenia

In **March 2010**, Armenian Helsinki Association has published the annual report on Human Rights situation in **Armenia**.

The report is basically focused on five main trends and developments observed in the country for 2009.

First, according to the report, **trials of arrested opposition activists** during post-election protests in 2008 continued with significant violations of rights to fair trial in 2009. Many activists were released under pressure of international community on June 19th however 13 still remain in prison. Armenian Helsinki Association considers them as political prisoners. The organization also emphasized that Armenian authorities have directly ignored COE resolutions in several instances. For instance, the PACE resolution 1677, which states that "detention as preventive measurement shall not be applied towards those activists who voluntarily have seized themselves to law-enforcement bodies before the deadline (July 31, 2009) determined by the requirements of amnesty declared by the National Assembly of Armenia on 19 June 2009". This resolution was implemented only partially as the authorities still continue to convict citizens in regards to March 1 events.

Second, violations of right to voting during 2009 elections of the City Council in Yerevan and elections to National Assembly were observed. According to Armenian Helsinki Association the authorities have used the administrative resources and mass pressure widely to affect the outcome of the elections in both cases.

Third, the changes to law on non-governmental organizations were introduced which have limited the abilities of active civil society representatives significantly. According to the report the changes aim at establishing control over NGO activities.

Fourth, the trials on cases of late soldiers continued through 2009. As the report asserts, factual circumstances of these cases are difficult to establish as the army in Armenia is a rather closed entity.

Fifth, during the CoE session in December, the monitoring committee expressed its concern and demanded from Armenian authorities to propose amendments to number of legislative acts. The aim of such amendments should be the reorganization of the judicial and police systems as well as criminal execution facilities. The CoE also urged the Armenian government to eliminate such negative practices as the denial in rallies and demonstrations, use of detentions as preventive mechanisms, mistreatment of arrested and detained individuals etc.

Azerbaijan

14 national and international human rights groups prepared a joint statement on the situation of human rights in Azerbaijan.

Several issues were identified as the most disturbing:

- Lack of democracy and division of power,
- A judicial system that does not provide justice,
- Lack of media freedom and repression of journalists and editors,
- Violations of the right to freedom of assembly and association,
- Widespread torture and concerns regarding lack of respect for the right to life,
- Repressions in the autonomous republic of Nakhchivan,
- Lack of transparency and widespread corruption in the Azerbaijani economy

See [Full statement and recommendations](#)

http://www.caucusnetwork.org/admin/editor/uploads/files/pdf/A%20common%20statement%20on%20HR%20in%20Azerbaijan_2010.pdf

Georgia

Human Rights Center (HRIDC) issued its annual human rights report

Brief: The report “**Vanishing Rights**” focuses on the situation with respect to civil and political rights; it zooms on the areas which the Human Rights Centre has identified among the most problematic ones in 2009

- **The judiciary and the broader issue of administration of justice**, including the issue of political prisoners, ineffectiveness of courts to provide redress to victims of rights' violations and the issue of selective justice;
 - **Humanitarian and legal consequences of the August War 2008**: deplorable living conditions of the IDPs and those living in the war-effected areas, continuous hostage-taking on both sides of Georgia's administrative boundary with *de facto* South Ossetia and the need for accountability for grave crimes allegedly committed during the August armed conflict.
 - **Widespread violations of the right to peaceful assembly**: illegal and undemocratic techniques used by the government of Georgia during the spring-summer demonstration to intimidate demonstrators and impede the realization of their right to freedom of assembly and manifestation.
 - **Significant deterioration of media freedom**, continuous pressure and intimidation of journalists and the climate of impunity further encouraging such actions.
-
- “**Vanishing Rights**” looks behind this façade and discloses an emerging loophole where rights and freedoms started to vanish under the climate of impunity, government's policies of sidelining alternative voices and ongoing process of amending or adopting the laws in order to diminish the substance of rights and freedoms guaranteed by them and to limit the scope of their practical application.



Justice After the War - A View from Georgia

A Year and 8 months after the War

In the middle of April, 2010 a team from the **Human Rights Center** focusing on the issues of war-effected people and IDPs visited IDP camps placed in Saqasheti village and village Ergneti which is located at the administrative boundary of Georgia with *de facto* South Ossetia. Houses destroyed during the Russia-Georgia war in August 2008 have not been reconstructed and the people there have to continue living in their surroundings even after 25 months since the war. War-effected population in Ergneti is living in constantly fragile security situation. On top of that, IDPs face problems with electricity and food supply.



Later that month, the team visited "zako" building and "'Former Georgian Military Hospital" and "Former Russian Military Hospital" (Isani district, Tbilisi). A number of IDP-s was still without an IDP status, and some of them had received it only recently. Not having an official IDP status means being deprived of the right to allowances guaranteed by the "Law of Georgia about Internally Displaced Persons," as well as the right to vote.

In "Georgian hospital" and "Russian hospital", both located in Tbilisi, the basement is full of fecal masses which generate intolerable smell in the whole building. The Human Rights Center contacted the Ministry of Refugees and Accommodation of Georgia and Isani-samgori district administration but [in vain](#).

Fotoreportage from Village Ergneti , April 2010





Georgian NGOs Established a National Coalition for the International Criminal Court

In May this year Georgian human rights NGOs – Human Rights Priority, Human Rights Center, International Center on Conflict and Negotiation, Article 42 of the Constitution, Center for Protection of Constitutional Rights, Union “Century 21” and the Georgian Young Lawyer’s Association established a Georgian Coalition for the International Criminal Court.

The coalition is based on years of work in the field of human rights carried out by the members of the coalition and their experiences of successful cooperation.

Goals of the coalition are to document crimes, which fall under the jurisdiction of the International Criminal Court (genocide, war crimes, crimes against humanity), in particular related to the 2008 Russian-Georgian war, to facilitate execution of judiciary in this regard at national and international levels, to provide legal and other forms of assistance to those people who have been effected by those crimes, to raise awareness about the International Criminal Court in Georgia, to cooperate with the court and to foster research and analysis in the field of international criminal law.

Members of the Coalition consider that serious crimes, like – genocide, war crimes and crimes against humanity must not remain unpunished. We also believe that achievement of sustainable peace and reconciliation will be impossible without justice. The International Criminal Court represents the most effective international mechanism in fight against impunity and for rehabilitation of violated rights.

The international partner of the Coalition is the “Coalition for International Criminal Court (CICC)”.

Shortly About International Criminal Court (ICC)

The International Criminal Court represents the first independent permanent body, investigating genocide, war crimes, and crimes against humanity and puts individuals to justice for above mentioned crimes.

The court became operational in 2002, on the basis of the international agreement – “The Rome Statute”, more than 100 countries have ratified the statute for today, including Georgia, which ratified the statute in 2003.

The International Criminal Court enables victims, as well as civil society representatives (human rights defenders, media, NGOs and other interested actors) to participate in the process of establishing truth, identifying and persecuting perpetrators as well as ensuring rehabilitation and reparation for victims.

Currently, the International Criminal Court is investigating cases of war crimes and crimes against humanity in five countries: Democratic Republic of Congo, Central African Republic, Uganda, Sudan (Darfur) and Kenya.

The Office of the Prosecutor is conducting preliminary analysis on facts, which might trigger the investigation in six countries: Afghanistan, Columbia, Palestine, Ivory Coast (Cot D'Ivoire), Guinea, and Georgia (in respect to Russia-Georgia war).

Luisa Mascia: “Prosecutor of the Hague Court Plans To Visit Georgia in June of 2010”

29 Apr. '10



Interviewed by Koba Bendeliani, Interpresnews

The Interpresnews interviewed the Europe Coordinator of the Coalition for the International Criminal Court Luisa Mascia about the cooperation between the Government of Georgia and the International Criminal Court regarding the Russian-Georgian war of 2008.

-What is the preliminary analysis your organization is conducting, what are the materials and evidence analyzed?

I would like to clarify that I represent here an NGO, the Coalition for the **ICC** (CICC), which is a network of over 2000 civil society organizations promoting a fair, effective and independent ICC. The Court is instead an international judicial institution, which has jurisdiction over individuals responsible of committing war crimes, genocide and crimes against humanity.

The Court is currently conducting a preliminary analysis of the situation in Georgia following the war in August 2008. This means that the ICC is analyzing and processing material from different sources, as to determine whether there are sufficient grounds to open a investigation.

In this framework, the CICC visit to Tbilisi is mainly aimed at liaising with NGOs, the media, international and regional organizations, including the EU and the Council of Europe, as well as with local authorities, to discuss the ICC, as well as other accountability mechanisms to address the recent HR and IHL violations of August 2008. In particular, the CICC met with several representatives of NGOs and the media to raise awareness about the Court, its functions and mandate, as to ensure the public is adequately and accurately informed about the ICC.

-Is Georgian government cooperating with the court and what are the forms of this cooperation?

In official information released by the Court following an official visit of the Georgian Minister and Deputy Minister of Justice to The Hague, the ICC Prosecutor welcomed the on-going cooperation by the Georgian Government.

The CICC also welcomes this cooperation and encourages the Government of Georgia to provide any needed further support to the Court, in particular by facilitating the Prosecutor's upcoming visit to Georgia, which is planned for June 2010.

-What is your assessment, how comprehensively has Georgian side investigated the case of alleged war crimes committed during the August war?

As long as investigations are ongoing, it will hard to make a thorough assessment. War crimes and crimes against humanity investigations are complex ones, which require specific expertise and knowledge, including when collecting evidence, interviewing witnesses or building the case.

While justice needs time, victims shall not be waiting too long. In that regard, it will be important to ensure that the victims and the communities most affected by the atrocities committed in August 2008 are kept informed about ongoing efforts to punish perpetrators of grave crimes. Justice shall be visible to victims and they should be able to submit their views at the earliest possible stage of the proceedings.

- Can the court start investigation about the Russia-Georgia war?

Yes. The Court has formally jurisdiction over war crimes and/or crimes against humanity allegedly committed on the territory of Georgia, and the fact that the Court has started a preliminary analysis into the post-war situation confirms that.

However, the Court will only formally act if States fail to try perpetrators; therefore, in its preliminary analysis, the Office of the Prosecutor is also monitoring ongoing national proceedings in Georgia.

-How realistic it is that the court starts investigation? If yes, who will apply to the court to start investigation, a state party, UN Security Council or the prosecutor?

It will depend on how much material the Prosecutor will have in his hands and on whether the alleged violations committed during the war will be considered grave enough by his office. There are 3 ways to trigger the Court's jurisdiction in this case:

- Georgia is a State Party to the ICC since 2003. This means that the Government could take a proactive approach and be the one to ask the Prosecutor to initiate an investigation. So far, this was not done.
- The Prosecutor could use his power to open an investigation at his own initiative.
- The UNSC could adopt a resolution under Chapter VII of the UN Charter to refer the situation to the ICC. This is the unlikeliest scenario.

-Russia is not a state party to the statute, so can the court still proceed with the case?

It is right that Russia is not a State Party to the Statute, but the Court would have jurisdiction over crimes ordered and/or committed by Russians on the Georgian territory (as Georgia is instead a State Party). This is the principle of "territorial jurisdiction".

If the Prosecutor decides to open an investigation, he will have the authority to look at alleged crimes committed by all sides to the conflict, including Russia.

NGO Report on violations of Human Rights and Humanitarian Law during the Russian-Georgian War Was Released

On May 5, 2010 Open Society Georgia Foundation and Georgian Human Rights NGOs – The Georgian Young Lawyers' Association, Article 42 of the Constitution, Centre for the Protection of Constitutional Rights, the Human Rights Centre and Union "Century 21" - released a report on violations of Human Rights and Humanitarian Law during the Russian-Georgian war of August 2008. Presentation of the report "In August Ruins" took place in the National Library of the Parliament of Georgia.



On February 2, 2010 Georgian NGOs presented the draft report to the Prosecutor Mr. Luis Moreno-Ocampo of the International Criminal Court (ICC) in the Hague. After the presentation the final version of the report along with background materials and statistic analysis will be sent to ICC and will serve as additional and supporting document for investigation.

With the support of the Open Society Georgian Foundation the report was prepared based on the materials collected by the five Georgian non-governmental organizations, such as: Georgian Young Lawyers' Association, Human Rights Center, Union "21st Century", Article 42 of Constitution, Center for Protection of Constitutional Rights.

Present Report is based on stories presented by IDPs and enables to demonstrate to the world and to the ICC the facts and documentary materials on cruel and inhuman actions committed massively on the Georgian territory.

"Our report does not and cannot reflect the complete investigation of the outcomes of August war, though the tragic stories of the IDPs, facts and documental materials described are the clear evidence of the cruel and inhuman actions carried out on the territory of Georgia".

The main value of the given report is that it is the result of the immediate action implemented by the Georgian organizations for human rights protection. Upon the end of the military actions, in September 2008, the organizations in coordination with each other started revealing the facts of human rights and humanitarian law violations. It should be mentioned that the organizations participating in the project still continue advocating about 1000 war victims in the European court.

We should state with regret that our report refers only to the events occurred in South Ossetia Autonomic Region and Shida Kartli region and does not give us the picture of the activities implemented in Kodori Gorge due to the lack of information.

We were unable to access the information possessed by the Ossetian side and check the reality of the facts in open resources due to the restrictions on travelling in the conflict zone. Therefore this report describes only those facts and event that could be identified and proved by our side"-the Executive Director of the Open Society Georgia Foundation, Keti Khutishvili said.

During the work on the present document NGOs collected and analyzed materials, which depict the 2008 conflict. 1055 IDPs were interviewed and all the collected materials were processed statistically as well as with application of fact-comparison methodology.

"The goal of the so-called "peace enforcement operation" carried out jointly by the Russian and the South Ossetian authorities was to clean Georgian villages on the South Ossetian territory from ethnically Georgian population. Ethnic cleansing was carried out in a well planned and systematic manner.

The information and documents collected by NGOs are extensive and enough to show the widespread and systematic nature of the attacks on villages in South Ossetia. Massive bombing of residential houses, agricultural lands, orchards, schools and entire city/village civilian infrastructure by the Russian army aviation, as well as burning of houses and annihilation of the entire villages by South Ossetia armed authorities was another prove of targeted ethnic cleansing. The evidence indicates indiscriminate and disproportionate bombing resulting in the deaths of numerous civilians.

Georgian NGOs believe that when the crime is committed, issue of liability should be addressed. International law and the protection mechanisms set up by the democratic world have to be applied equally and regardless the size and influence of the state and/or duration of the war.

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The Newsletter has been prepared by the **Human Rights Center** (Network Coordinator in Georgia) with the assistance of the **Armenian Helsinki Association** (Network Coordinator in Armenia), **Legal Education Center** (Network Coordinator in Azerbaijan) and **Human Rights House Foundation** (International Partner of the Network, Norway).

We thank our member organizations who contributed to this newsletter with their valuable information.

Please Note: It is obligatory to indicate the source when using materials from this newsletter

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