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HUMAN RIGHTS DEFENDERS UNDER THREAT IN GEORGIA



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Human Rights Defenders under Threat in Georgia

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With the assistance from the *Human Rights House Foundation* (Oslo, Norway)

On the cover: Police dismantling demonstration in Tbilisi, June 15, 2009

Courtesy photo by information agency InterPressNews

A child inside a tent of war-affected population, 2008

Photo by Temo Bardzimashvili



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The ***South Caucasus Network of Human Rights Defenders***, an initiative of the Human Rights Centre (HRIDC) (Georgia) and Human Rights House Foundation (Norway) came into existence in the spring 2009.

The Network is financially supported by the European Union and the Norwegian Ministry of Foreign Affairs.

The South Caucasus Network of Human Rights Defenders unites 30 human rights NGOs in Armenia, Azerbaijan and Georgia. The Human Rights Centre coordinates the Network in Georgia.

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 the 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.

For further information about the Network, please see

www.caucasusnetwork.org

Introduction

It has been unilaterally acknowledged that the primary duty for the protection and realization of human rights and freedoms rests with the national government of each country.¹ Domestic implementation of these rights, however, largely depends on the ability of individuals and groups to demand from their governments to live up to their legal and policy obligations in the field of human rights and freedoms.

Those who inquire, record and expose human rights violations, those who seek remedies for victims and accountability for perpetrators, and educate populations on their human rights play a crucial role to make the world a better place to live now and for generations to come.

These individuals are commonly known as "human rights defenders."

Human rights defenders can be lawyers, relatives of victims, teachers, trade unionists, journalists, and other human rights activists. It is their activities in this field that define them as human rights defenders.²

It is of crucial importance, therefore that those who defend human rights are able to do their job and to raise concerns when things go to a wrong direction. Human rights defenders are entitled, among others, to have a legally recognized right and practical possibility to associate or assemble peacefully, to communicate, to observe trials, to receive and disseminate human rights information and to draw public attention to human rights issues, to participate in the government and conduct of public affairs, and to submit proposals and criticism.³

The work of human rights defenders often involves criticism of governments' policies and actions. However, governments should not see this as a negative. The principle of allowing room for independence of mind and free debate on a government's policies and actions is fundamental, and is a tried and tested way of establishing a better level of protection of human rights.⁴

If an individual or a group faces harassment, retaliation or violence while or for protecting and promoting human rights, this may have a chilling effect not on that particular person or group only, but may also deter a wider community from seeking protection and promotion of one's own, as well as others rights and freedoms.

It has been commonly acknowledged therefore, that states have a duty not only to protect human rights and freedoms, but also to take all necessary measures to protect human rights defenders. States have a duty to protect them against violence, discrimination and retaliation,⁵ to ensure independent and effective investigation of such acts and to hold those responsible accountable through administrative measures and/or criminal proceedings.⁶

States also have an obligation to ensure that their legislation, in particular on freedom of association, peaceful assembly and expression, is in conformity with internationally recognized human rights standards.⁷

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March, 1999);

² PACE Resolution 1660 (2009) on the Situation of Human Rights Defenders in Council of Europe member states;

³ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March, 1999);

⁴ European Union Guidelines on Human Rights Defenders (2008);

⁵ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (8 March, 1999);

⁶ 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);

⁷ Ibid.

States should also take effective measures to promote and respect human rights defenders and ensure respect for their activities.⁸

“(Not)To Enquire, (Not)To Record, (Not)To Expose” represents one of the first attempts to document challenges and constraints faced by journalists, lawyers, NGO activists and others when speaking and standing out for the protection and promotion of human rights and freedoms in Georgia.

The report maps and analyses key trends and patterns and marks emblematic cases revealing the methods used to keep defenders away from enquiring, recording and exposing human rights violations, practices of corruption, undemocratic governance, etc.

“(Not)To Enquire, (Not)To Record, (Not)To Expose” shows, that similar to the overall human rights situation in the country, the situation of human rights defenders is disturbing in Georgia and needs close attention from national as well as international stakeholders to prevent its further deterioration.

The Human Rights Center is dedicated to continue its work to protect and empower human rights defenders in Georgia and in a broader region individually and in association with our national and international partners. Our commitment is based on the understanding that "when the rights of human rights defenders are violated, all our rights are put in jeopardy and all of us are made less safe."⁹

⁸ Ibid.

⁹ Kofi Annan, Former UN Secretary General

...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)

Human Rights Defenders under threat in Georgia

During the last two years human rights defenders in Georgia have faced different forms of pressure and intimidation which have included 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, etc.

In some cases certain state officials were personally involved in physical attacks and/or intimidation of the defenders, the use of locals with criminal reputation for intimidation purposes was also documented.

A number of defenders reported having noticed being under surveillance in certain periods of time and/or having their mobiles and their email accounts tapped. Threats that their family and persons close to them would face 'problems' have also been reported by defenders as a form of pressure they have experienced.

Impunity

An environment of widespread impunity exerts a chilling effect on critical voices and watchdogs, particularly in the regions.

While in Georgia the level of conviction and imprisonment is very high in general, impunity for attacks and harassment of journalists, lawyers, activists and the wider community of human rights defenders remains widespread.

Attacks or threats and pressure against human rights defenders are rarely denounced publicly by the authorities, neither does identification and prosecution of perpetrators takes place.¹⁰ The main reason for the impunity present in the absolute majority of cases has been the lack of political will on the part of the state to investigate and punish the crimes committed, rather than the lack of professional or material resources.

Recurrence of violence against some defenders during the reporting period, in some cases involving exactly the same perpetrators, can be seen as a direct prove that impunity has given a green light to perpetrators and has encouraged their ulterior actions.

Lack of rule of law

The Constitution and laws of Georgia provide for judicial independence and impartiality as well as universal right of access to courts to protect one's rights and freedoms.¹¹ Practical implementation of these rights however remains problematic, particularly in criminal and administrative proceedings, where state interest is directly or indirectly involved.

Selective application of justice remains one of the key concerns; on the one hand, rather than holding them accountable, courts often cover up alleged violations committed by some representatives of the executive branch, on the other hand an alarming pattern has been documented when the judiciary and the legal system in general is used as a punitive mechanism for silencing critical voices.

The judiciary remains one of the least trusted state institutions among the public.¹²

¹⁰ An exception was when the president condemned publicly the fact that journalists sustained injuries during the spring demonstrations as a result of excessive use of force and prohibited weapons by law enforcement authorities, the interior ministry publicly apologized for it as well, however, no one has faced criminal responsibility.

¹¹ Organic Law of Georgian on General Courts was adopted by the Parliament of Georgia on 13.06.1997 states: "every person has the right to protect his rights and freedoms through the judiciary. The Judicial system shall be independent from the rest of the governance branches; it shall carry out its function through courts. Judges shall be independent and bound only by the Constitution of Georgia, international covenants, treaties and laws. State bodies and bodies of self-governance, state institutions, public and political unions, state officers, legal and private entities are prohibited from infringing court independence."

¹² E.g., according to the Global Corruption Barometer, released by the Berlin-based Transparency International on June 3, 2009 most of the Georgian citizens rank the judiciary as the most corrupt institution in the country. Like in previous

A well documented trend of selective application of justice and lack of commitment to the rule of law creates a lingering threat for watchdogs and critical voices in general.¹³

On the other hand, the number of official complaints lodged against abuses and intimidation remains very low. This can be explained by the lack of trust and confidence among defenders towards the justice system. However, another reason reported for these low numbers is the pressure exerted by the authorities to withdraw or not to lodge a complaint at all.

In some other cases journalists themselves abstained from suing authorities for abuses committed against them, fearing retaliations and refusals to cooperate, provide information etc. which journalists greatly depend on for carrying out their activities successfully.

Challenges faced while defending rights in a courtroom

The law imposes a blanket ban on video and audio recording in the courtroom.¹⁴ This 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.

Defense lawyers have been facing particular problems in ensuring protection of rights and interests of their clients (both defendants and victims) in courts due to the lack of judicial independence.¹⁵

Courts often fail to uphold the principle of adversarial trial and equality of arms, hearings very often constitute a mere formality, in absolute majority of cases judges fully satisfy the motion of the prosecutor while rejecting nearly all arguments and evidence of the defense lawyers, and rarely - if at all - providing an explanation for that.¹⁶

Georgia's Public Defender noted in his report for the second half of 2009 that "lack of proper justification of interim rulings and final verdicts represent one of the most problematic issues in the judiciary." The report also says that during the analysis of criminal cases heard in the courts, this problem has been revealed multiple times "indicating that insufficient justification of decisions is a systematic problem."

Such a reality undermines the role of the defense lawyer/victim's legal counsel and marginalizes them.

The application of custodial measures (both pretrial detention as well as imprisonment) constitutes a rule rather than exception, acquittals remain very low.

Plea bargain agreement continues to be widely used.¹⁷ Whereas the law provides for a very limited role of the defense lawyer in this procedure, its practical implementation has limited it even further. In practice the key is that an agreement is reached between the prosecutor and the accused, the defense lawyer is only involved at the last stage when signing the agreement, which contradicts the law itself.

similar surveys held in 2005 and 2007, the judiciary again topped the list of least trusted institutions with only 14% of respondents saying there is no corruption in the judiciary and 37% say it is vastly corrupt, according to the report.

¹³ In 2009 fact-finding mission of the FIDH confirmed the existence of political prisoners in Georgia, casting serious doubts on the independence of the judiciary in Georgia.

¹⁴ In 2006-2007 started public's widespread disillusionment with the judiciary under the new government. The process was triggered by media reports, based on recordings in the court rooms, about miscarriages of justice in high profile murder cases. The recordings triggered biggest public outcry since the rose revolution in Georgia. In response to lingering crisis in the country, parliament promptly amended the law (in July 2007) and imposed a blanket ban on photo-video and film recording in the court premises and a court rooms.

¹⁵ That applies to criminal and administrative cases.

¹⁶ Human Rights Center: Trial Monitoring Report (2009)

¹⁷ Although the law regulating the agreement was modified in response to a harsh criticism nationally and internationally, the modified one and its practical implementation still remain problematic. Plea bargain agreement is a procedure which under the cover of a 'speedy justice' gives discretionary powers to the prosecutor, while sidelining the court, as an independent actor. Formally the court has a right either to endorse the agreement or to reject it. So far no case has been observed when the court rejected the agreement. (Human Rights Center: Trial Monitoring Report (2009);

Two cases have been documented in 2009 when a defendant was offered to be released from prison based on a plea bargain agreement if the defence lawyer, in both cases an NGO providing free legal aid, would withdraw from the case, which in the end did happen considering the interests of the client.

Financial vulnerabilities

The Lack of financial sustainability has a negative effect on the consistency and commitment in defenders' work, especially in the regions. Human rights NGOs often experience difficulties in accessing funding (both from national as well as international sources.)

The Labour Rights Code of Georgia is protective of the employer's interests and fails to offer any meaningful protection to the employee. This is particularly relevant as far as journalists are concerned since media owners rarely, if at all, offer to a journalist an employment contract which sets out rights and obligations of each party which can be used in court for protecting journalist's rights and interests. Such an environment poses a lingering threat of dismissal to practically any journalist, providing a 'soft' tool to put significant limitations to their professional freedom and encourages self-censorship.

Situation in provinces

Defenders who live and work in provinces are particularly vulnerable because they live in small communities where open criticism of local authorities, their actions and policies is more dangerous than in bigger cities and in the capital. One of the reasons for this is that there is significantly less presence and attention of international actors, like international human rights organizations, embassies or country missions, in provinces than in the capital.

The Year 2008

Elections

In 2008 human rights defenders faced attacks, intimidation and verbal abuses while monitoring Presidential and Parliamentary elections. Election monitors in the regions were particularly vulnerable to such acts and many were threatened to lose their jobs or be put in jail under fabricated charges for documenting irregularities. Many reported threats against their family members and relatives as well.¹⁸

It is noteworthy that in its conclusions about the presidential elections the OSCE highlighted significant problems, including widespread allegations of intimidation and pressure, flawed vote-counting and tabulation processes, and shortcomings in the complaints and appeals process. These and other problems continued during the parliamentary elections in May 2008, which international observers concluded were uneven and incomplete in their adherence to international standards.

The war

In 2008 and afterwards defenders also experienced difficulties and limitations in the context of the Russia-Georgia war in August 2008. "This conflict brought to the fore once more the tensions in terms of freedom of expression: because the Georgian authorities were concerned to maintain a positive image during the conflict, human rights defenders and in particular independent journalists, faced difficulties in providing evidence freely. During the summer of 2008, journalists and NGO representatives faced great difficulty in reporting violations of human rights and international humanitarian law during the war with the Federation of Russia, not only in the regions occupied by Russian troops but also in neighboring regions under Georgian control. They encountered material obstacles to reach these areas, as well as physical and moral pressure aiming to prevent them from denouncing violations.

As an example, Mr. Saba Tsitsikashvili, an HRIDC Coordinator and journalist who was investigating the situation of refugees in the Gori region in South Ossetia, was subject to threats and pressure exerted by

¹⁸ As a rule, people avoided talking about these openly and only mentioned such cases in informal conversations

regional Government officials on several occasions in August 2008. Pressure continued to be exerted during the following months. He was particularly encouraged to end his human rights activities or risk reprisals against himself and his family. For his part, Mr. Ucha Nanuashvili, HRIDC Executive Director, was questioned and then threatened with prosecution on August 29, 2008. Nothing had come of these threats as of the end of 2008.”¹⁹

During the reporting period, political leadership has been using skillfully the post war situation and ongoing occupation of the part of Georgia’s territory by Russia to distract national and international attention from internal problems, including the lack of democracy and human rights. They have also used that argument for silencing critical voices and discrediting them in the public eye.

The Year 2009

In 2009 human rights defenders in Georgia continued to face difficulties and illegal restrictions in exercising their activities freely and without undue hindrance.

Journalists were especially vulnerable during opposition demonstration in spring and summer 2009. Several of them became victims of physical and verbal abuse from state as well as non-state actors. Several journalists covering the demonstrations sustained serious physical injuries when authorities used prohibited weapons, in particular plastic and rubber bullets and reportedly stones as well. No one has been prosecuted for that.

Threats and pressure, including on family members of defenders, continued.

In July the Georgian Parliament, like Azerbaijan, Ethiopia and Jordan, passed new legislation restricting freedom of association and assembly, thus joining the negative trend which is particularly pronounced in Africa and former Soviet countries.²⁰ Amendments to the Law on Assembly and Manifestations in 2009 were used by state officials to restrict freedom of peaceful assembly.²¹

Detention of advocates

Detention of advocates on ill-grounded charges continued. Official statistical data as to how many advocates have been detained and remain behind the bars as of today have not been provided to the Georgian Bar Association.²² Allegedly the number is approximately 200.²³ Serious allegations exist that, at least in some of the cases, imprisonment was motivated by the intention to silence those who are committed to pursuing legal ways at national as well as international levels in defense of human rights.

¹⁹ The 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), Annual Report (2009)

²⁰ Human Rights Defenders in 2009: Front Line, annual report (2010)

²¹ Ibid.

²² According to the Head of the Bar Association of Georgia

²³ Ibid.

Freedom of expression and media

National and international organizations have observed a deterioration of the situation of freedom of expression and media during the last years in Georgia. Government control of media, lack of effective investigations and accountability for illegal interferences to journalists' activities, including physical attacks and pressure on media outlets by different government bodies, self-censorship, denial of access to public information *to journalists*, un-transparent ownership and media concentration as well as unfriendly market for developing independent and self-sustainable media conditions are some of the key problems.

Access to public information

Throughout 2009-2010 journalists continued to face problems when trying to obtain public information from authorities. Answers were either not sent to them at all, were sent after the deadline set by the law, or were incomplete, irrelevant and/or meaningless.

Although the law allows anyone to appeal denial of public information to the court, expenses to be incurred by the applicant in this case have been identified as a serious barrier for journalists in pursuing their interests in courts. This situation affects most significantly the work of investigative journalists.

Media and defenders

Deficit of independence, especially in Georgian electronic media, negatively affects defenders' abilities to reach out to citizens and provide them with information on different human rights programs, raise people's awareness about human rights violations and questionable practices documented by defenders, about human rights and available mechanisms for realization of these rights, etc.

A worrying tendency surfaced in 2009 - involvement of some media outlets, especially TV, in the smear campaign against human rights defenders. Defenders working to expose and seek remedies for IDPs and the population effected in the Russia-Georgia War of 2008 were particularly targeted.

The media, especially nationwide TV channels, were also used to impose on public an official version of the reasons, causes, facts and possible consequences of the Russia-Georgia war in 2008. Such a reality made it difficult for human rights defenders to document violations and seeks redress for victims. For the same reason, it has remained difficult for the civil society in general to engage in and encourage free public discourse about the Russia-Georgia war 2008.

Civil Society's participation in the decision-making process

Involvement of civil society in the consultations and decision-making process with the government regarding issues of public interest remained limited. Numerous calls by NGOs and the wider human rights community to bring perpetrators to justice in high profile cases, including violence and excessive use of force against peaceful demonstrators in 2009 and before that in 2007, remained largely ignored.

In July the parliament amended three laws, all restricting human rights and freedoms, including the rights of defenders, and increasing powers of the executive, e.g., the amendments to the Law on Assembly and Manifestation disproportionately limited the right to a peaceful assembly.²⁴ Furthermore, the Parliament went through all stages of considering the proposed amendments in two weeks time and adopted them at the extraordinary session without holding consultations with different stakeholders. The Parliament, as well as the President, ignored calls from major human rights NGOs in the country to put on hold adoption of the amendments till receiving commentaries to the draft laws from the Venice Commission.

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On a positive note in December 2009, the president shortlisted and parliament elected 3 nominees advocated by the non-governmental organization Media-Club for the membership in the board of the public broadcaster.

‘Creating a real civil society’

In May 2009 the President stated: “Now, we are creating a real civil society”²⁵. The statement was soon followed by the official opening for a special Fund in June aiming to provide financial aid to CSOs.

Against the backdrop of ignoring and marginalizing alternative voices including NGOs since 2004 and a record of uninvestigated cases of abuses against human rights defenders committed by state agents, these two developments triggered concerns and was seen as a signal of the Government starting a top-down process of building civil-society in Georgia.

The Year 2010

Two cases in the beginning of the year triggered alarm among defenders and the wider human rights community in Georgia: the death threats made against a leading investigative journalist, V. Komakhidze, who had to flee the country and apply for political asylum in Switzerland, and a media report alleging that Counter-Intelligence Department started to expose spies working in NGOs in Georgia. The media report also alleged that this was the main topic of the session at the Parliamentary Committee of Security and Defense. No independent verification of the media report has been possible as to date.

In early 2010 President ignored views from more than 30 NGOs regarding the candidacy for the post of chair of the Georgian elections commission. Faced with the prospect of nominating one of the two candidates, both of whom enjoyed widespread support from NGOs and had exemplary records in election observation and monitoring, the president instead opted to re-nominate three candidates who had zero or minimal support from the civil society organizations.²⁶

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

²⁵

<http://www.civil.ge/eng/article.php?id=20983&search=saakashvili%20says%20to%20create%20real%20NGOs%20in%20Georgia> Civil Georgia, 25 May, 2009

²⁶ http://georgiamediacentre.com/content/saakashvili_ignores_views_ngos_election_commission_nomination

The cases documented by the Human Rights Center in the framework of the project "*Creation of the South Caucasus Network of Human Rights Defenders*", which is coordinated by Human Rights Center in cooperation with regional partners, Legal Education Society and Armenian Helsinki Association and the Human Rights House Foundation as an international partner.

This list of cases is not exhaustive, it is indicative of main trends only.

Smear Campaign against NGOs and human rights activists in the Media

The Case of 'Human Rights Priority'²⁷

On December 10, 2009, International Day of Human Rights, the news program of Georgian Public Broadcaster released a telecast condemning Human Rights Priority's activities related to the protection of human rights.

The news item stated as if Human Rights Priority was 'using the tragedy of war for its own benefits'. Special attention was paid to the contract between Human Rights Priority and its potential clients based on which the organization is providing free legal aid to those affected by the August war in 2008. However none of the signed contracts was presented in the media report, moreover, the report was talking about the draft of the contract which gains binding force only after the signature from both parties.

The overall tone and the content of the media report released by the Public Broadcaster on the International Day of Human Rights harshly criticized those who dare to submit a complaint to the European Court of Human Rights versus Georgia.

Earlier the same year, Lia Mukhashavria, the head of the organization, was found to be in breach of article 166 of the Administrative Code of Georgia. Article 166 of the Administrative Code of Georgia defines "minor hooliganism" as using foul language, cursing, insulting citizens and similar activities in a public place. The finding was based upon the allegations of a citizen - Manana Sosebashvili, who accused Lia Mukhashavria of harassing her while carrying out her professional duties and of representing her friends in a private dispute. The allegations of harassment were reported by the Patrol Police officers, who themselves allegedly witnessed but ignored reports of harassment of Lia Mukhashavria by Manana Sosebashvili herself.

It is believed that the case against Lia Mukhashavria is related to her work in defending human rights in Georgia, particularly by representing victims of human rights abuses in cases against the state authorities.²⁸

Mukhashavria appealed the case with no avail, however.

²⁷ Human Rights Priority is a Tbilisi-based NGO which is actively and successfully involved in strategic litigation - appealing cases related to human rights violations of the IDPs and those affected by the Russia-Georgia war 2008. After exhausting local remedies, Human Rights Priority appeals the cases to the European Court of Human Right.

²⁸ For further details see statement by FrontLine dated 2009/10/22 at <http://www.humanrightsdefenders.org/en/node/2211>

The Case of Georgian Young Lawyers' Association²⁹

On December 12, 2009 TV Company Rustavi 2 released a media report concerning the issue of hostage exchanges between Georgian and South Ossetian sides. According to the report, the release of Georgian citizens detained in Tskhinvali was spoiled by the Georgian Young Lawyers Association complaint submitted "in defence of Ossetian criminals" to ECHR.

The media statement lacked any logical and factual ground and was misleading the public. Moreover it constituted an attempt to incite anger, promote intolerance and ethnic division.

The Case of Sozar Subari, former public defender of Georgia

In December TV Company Real TV prepared a one-sided and highly biased media report concerning former Public Defender Sozar Subari who is one of the most reputable people in Georgia for his human rights work carried out as a public defender. The media report portrayed Subari with highly negative connotation accusing him of being a defender of religious minorities and their rights and never the rights of orthodox Christians who represent the religious majority in the country. Recently there have also been other attempts to discredit Subari and his work carried out by him as a public defender.

The case of Thomas Hammarberg, COE Commissioner for Human Rights

On November 4, 2009 four Georgian teenagers between 14 and 17 years old were detained in the vicinity of Tskhinvali, capital of the *de facto* South Ossetia. Parties spread controversial information about the reasons of the detention.¹ Teenagers were prosecuted under the law of Russian Federation and sentenced for "illegal crossing of the South Ossetian border and possession of explosives" by court of *de facto* South Ossetia.

Their detentions sparked an outcry in Georgia and calls from Georgian authorities and the European Union for their release.

On November 20, 2009, the Chair of the Parliamentary Committee for Foreign Affairs Akaki Minashvili of the ruling party criticized Thomas Hammarberg, the Council of Europe's commissioner for human rights, for "being inactive" in respect of four Georgian teenagers. Minashvili accused Hammarberg of taking "abstaining position" in all those cases, which regard Russia: 'This person [Hammarberg] is doing nothing; he is totally inactive. Such action, first of all, harms the Council of Europe and questions its reliability...Urgent reaction is needed to ensure that either this person [referring to Hammarberg] takes reaction or he should be replaced."³⁰

Parliamentary Chairman David Bakradze said: "It should not be seen as if Georgia is interested in confrontation with the Council of Europe or Commissioner for Human Rights, but we should understand that it is a test – if the Council of Europe, Mr. Hammarberg or his colleagues want to have a trust... this case really is a test, wherein everybody should spare no efforts," said Bakradze.³¹

²⁹ The Georgian Young Lawyers' Association (GYLA) is a membership based non-governmental organization in Georgia. GYLA aims to promote the rule of law, protect human rights and freedoms, increase public legal awareness, promote norms of professional ethics among lawyers, develop the skills and competence of lawyers, develop legislative basis for the civil society and rule of law country.

³⁰ Civil Georgia, 20 November, 2009

³¹ Ibid.

Georgian civil society perceived such statements as showing the inability of the government of Georgia to do its own job. "The entire world should not be busy in the release of four children...unfortunately; our government needs PR campaign and examples to expose Russian and Ossetian aggression... The government of Georgia is extremely biased and wants to hide its lack of principality behind the involvement of international organization," – stated conflict scientist Paata Zakareishvili.³²

Thomas Hammarberg arrived to Georgia towards the end of November and held intensive talks both in Tbilisi and Tskhinvali on release of detainees, as a result of which the teenagers were released.³³

On November 30, 2009, during his visit to Tskhinvali, Hammarberg stated: "I try to get real information and have arrived here for this purpose. It is clear for me that we have two obligations; one – to decrease challenges of the conflict and second – protect human rights. I am grateful that the "ice has started to melt" and we will do our best to release detainees. Personally I and our office are eager to assist these people. We are completely free from political influence...

I was criticized because of my unbiased activities and honesty. I am eager to support the families from both sides."³⁴

After Hammarberg's intervention, it became evident that Georgian side was holding illegally detained Ossetians under its custody, while categorically denying such facts before. As a result, several of them were released and were able to return back to their families.

Thomas Hammarberg and his office are continuing efforts to identify such people and negotiate their release with Georgian and de fact authorities of South Ossetia.

The case of Inclusive Foundation

On December 15, 2009 police raided office of "Inclusive Foundation," the first officially registered NGO in Georgia (2006) openly working on LGBT right. The office of the NGO was searched by police. Reportedly, during the raid officials used anti-homosexual slurs, made unnecessary strip searches, unnecessarily damaged organizational posters, and unnecessarily ransacked offices, the law enforcement officials were not wearing any uniforms and did not have a search warrant. They confiscated staff's cell phones and did not allow contacts to families and friends. The leader of Inclusive Foundation was arrested charged with drug possession - and released after a few weeks.

The Ministry of Internal Affairs denied that any procedural violations took place and maintained that the profile of the organization was irrelevant in terms of the law. The ministry reported that its General Inspection Office gave one officer a reprimand at the "severe" level in accordance with the police code of ethics, as his actions were determined to be non-ethical and inappropriate for police officers. Two other officers were also given a reprimand at the "severe" level for not preventing the above-mentioned officer from making the unethical statements.

Investigation into the alleged procedural violations during the search of the office is ongoing.

³² Paata Zakareishvili: "Georgian Side Will Have To Release Arbitrarily Detained Ossetians", 2 December, 2009, see at <http://www.humanrights.ge/index.php?a=article&id=4421&lang=en>

³³ Aleko Sabadze and Giorgi Romelashvili, each 14 years old, were given conditional sentences and released on December 2, while Levan Kmiadashvili and Viktor Buchukuri were both sentenced to a year in prison each, but were released later, on December 19, 2009.

³⁴ Commissionaire of the CoE Discovered Disappeared Ossetian People, 4 December, 2009, see at <http://www.humanrights.ge/index.php?a=article&id=4429&lang=en>

The Case of Vakhtang Komakhidze

Investigative journalist Komakhidze became victim of a continuous smear campaign because of his visit to the occupied territories and the meeting with the de facto leader of South Ossetia in 2009.

In particular, on December 17, 2009, on the same day when Mr. Komakhidze came back to Tbilisi from South Ossetia, where he met NGOs, war-affected families and de facto leader, high profile politicians in Tbilisi harshly criticized him and his colleagues for this visit. Their criticism was broadcasted in the news programs by various media outlets. For instance, Mr. Shota Malashkia, one of leaders of the ruling party said: "this is a disease not only for Georgia; such people [referring to those who visited Tskhinvali on December 16] always existed during the various occupation regimes and their actions there have already been responded by the population after the de-occupation. The same will happen in case of these people as well - for some of them it will be a response through [results] in elections and for others from the moral point of view."

At the same time, a vigorous media campaign started on several national TV channels scolding those who visited Tskhinvali and Moscow after the war and labeling them as "betrayers" of the nation.

In 2010 Komakhidze was subjected to further attacks by a media outlet "Real TV" who allegedly has close ties with the Ministry of Interior of Georgia. In particular, on February 9, 2010 *Real-TV* released a telecast concerning private life and professional activities of Komakhidze. The TV report spread incorrect information, saying that in 2004 Mr. Vakhtang Komakhidze worked at the Ministry of Security and had to leave the Ministry after one year because of financial machinations. True fact is that Mr. Komakhidze left the Ministry three months after his appointment based on his personal wish and moved to the Public Defender's Office of Georgia. The report also accused Mr. Komakhidze of polygamy and tried to portray him as a bad father for his children. The TV report also recalled a prison term which Komakhidze had served some 29 years ago when he was a juvenile.

Leading Georgian journalists and media experts denounced the telecast as "horrible," "nasty information", "propagandist method," "shame of Georgian journalism."³⁵

Case of "spies comfortably sitting in so-called NGOs"

On February 22, 2010 newspaper "Versia" (Version) published an article "Who is the agent with the code name "Shvartsika" and what coded messages were published on web-sites." According to "Versia", "Counter-Intelligence Department started to expose spies working in Georgia." The newspaper alleged that the Counter-Intelligence Department "particularly focused on the spies of Russian Special Forces." The article further read: "The materials are already collected on spy-network of Russian spies and according to lobby information law enforcement officers will pay particular attention to the spies comfortably sitting in so-called NGOs. It was the main topic of the session at the Parliamentary Committee of Security and Defense. Givi Targamadze's committee has discussed the increase of funds for intelligence activities."

³⁵ <http://www.caucasusnetwork.org/index.php?a=main&pid=129&lang=eng>

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

The case of Vakhtang Komakhidze³⁶ (2010)

Death Threats against an Investigative Journalist

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 *Pres.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-affected 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.³⁷

Komakhidze was also subjected to a smear campaign in certain media outlets [please see the section about the smear campaign]

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.

³⁶ 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.

³⁷ Komakhidze stated, e.g., that two days before the war, on August 6, the State Minister of Georgia agreed with the de-facto authorities of South Ossetia about the evacuation of the grandmother of Ms. Alana Gagloeva, an employee of the President’s press-service. However, at that time, the Government left the Georgian population completely unprotected, in the hands of the Russian army, according to Komakhidze.

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's reaction

The 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.³⁸

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," "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 exerted on Komakhidze, called upon Georgian authorities to promptly and effectively investigate the incident and to hold the perpetrators accountable.³⁹

Current status of the case

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

³⁸ Media Ge, 17 February, 2010 - 14:45 see at <http://www.media.ge/en/node/36337>

³⁹ <http://www.caucasusnetwork.org/index.php?a=main&pid=137&lang=eng>

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 Amaglobeli, 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. Amaglobeli 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.

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, 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."⁴⁰

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 Defenders⁴¹ 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.⁴²

⁴⁰ <http://www.media.ge/en/node/26901>

⁴¹ <http://www.caucasusnetwork.org/index.php?a=main&pid=100&lang=eng>

⁴² <http://www.caucasusnetwork.org/index.php?a=main&pid=107&lang=eng>

The Case of “Batumelebi” Newspaper: Hindering 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, they were charged with the disobedience to the legal demand and were fined by a GEL 1,000 each.

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)

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.

Critical Radio Program

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 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.

Case of Saba Tsitsikashvili (2010 and 2008)

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 Kartli⁴³. 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

⁴³ <http://humanrightshouse.org/Articles/13189.html>

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.

This is not the first case when Saba Tsitakashvili 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 Tsitsikashvili 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.

Threats and harassment of NGO leaders and activists

The case of Arnold Stepanian⁴⁴ (2009, 2010)

Arnold Stepanian and the organization led by him, Public Movement "Multinational Georgia" experienced different forms of pressure and threats starting from 2006.

More recent incidents concern developments in 2009.

In the beginning of 2009 the pressure on Arnold Stepanian has been expressed through sealing up the one-person enterprise "Arnold Stepanian" which operated a small market managed by his father. Despite of the reaction and public statements made by local NGOs and international organizations, like FIDH and FrontLine the pressure has been increased.

Threats and pressure

In 2009 Stepanian received direct threats from certain state officials. They warned Stepanian that if he would not subject his activities to the control of authorities, he would be imprisoned on fabricated charges of espionage; allegedly officers said the country would "probably be Armenia or Russia". At that point the officers demanded from Stepanian to stop working on the topics related to the "specific" regions like Samtskhe-Javakheti, Kvemo Kartli,⁴⁵ South Ossetia and Abkhazia⁴⁶, as well as to stop the initiative on the Russian-Georgian Civil Society Dialogue

⁴⁴ Arnold Stepanian is one of the leaders of Public Movement "Multinational Georgia" (having the Council of Europe partnership status) which focuses on minority rights protection and seeks to establish tolerance and diversity as natural conditions of the democratic society in Georgia. Stepanian is also a co-founder of the "Civil Manifesto" which unites Human Rights defenders and organizations in Georgia. He is one of the authors of the critical alternative report on the protection of minority rights in Georgia which was submitted to the Council of Europe.

Public Movement Multinational Georgia is a member of the *South Caucasus Network of Human Rights Defenders*.

⁴⁵ The regions in Georgia populated with ethnic minorities.

⁴⁶ At that time the two were the break-away regions of Georgia, currently they are recognized by Russia and few states as independent. The European Union and the USA continue the active policy of non-recognition.

Stepanian also reported that in August 2009 representatives of the Ministry of Interior tried to deter him from implementing a project in Akhalkalaki.⁴⁷ The project was financed by “Open Society - Georgia” Foundation and aimed at increasing awareness of the leaders of public opinion of Samtskhe-Javakheti about developments in Samtskhe-Javakheti, also of the representatives of diplomatic corps about the problems of the region. Stepanian was warned not to bring to Tbilisi some of the leaders having special opinion, so called “radicals”. Despite of the attempts to hamper implementation of the project, PMMG managed to conduct it successfully that led to the re-closure of the market operated by one person enterprise “Arnold Stepanian”.

According to Stepanian, he was also warned not to implement any activities in Samtskhe-Javakheti, particularly not to monitor elections in this region. Otherwise it was made clear that discrediting campaign would be launched against the organization led by him.

In 2009 Stepanian’s some of family members, relatives and friends were also subjected to selective approach by tax inspection authorities. He also reported to be informed through informal sources that during certain period of time in 2009 he was under intensive surveillance, and the Customs Department had received informal notification to arrest any goods related to him or business organizations owned and managed by his relatives and friends, as well as check emails coming to private or organizational email addresses, and block and examine parcels.

“Spies comfortably sitting in so-called NGOs”

On February 22, 2010 newspaper “Versia” (Version) published an article “Who is the agent with the code name “Shvartsika” and what coded messages were published on web-sites.” According to “Versia”, “Counter-Intelligence Department started to expose spies working in Georgia.” The newspaper alleged that the Counter-Intelligence Department “particularly focused on the spies of Russian Special Forces.” The article further read: “The materials are already collected on spy-network of Russian spies and according to lobby information law enforcement officers will pay particular attention to the spies comfortably sitting in so-called NGOs. It was the main topic of the session at the Parliamentary Committee of Security and Defense. Givi Targamadze’s committee has discussed the increase of funds for intelligence activities.”

After this introduction, the article focused on Arnold Stepanian. The newspaper alleged that the Security Services of Russian Federation had won Stepanian over in 1993. The Newspaper accused Stepanian in regularly sending information to them under the code name “Shvartsika.”

The newspaper identified some Russian social forums and documents uploaded on them couple of days before as their source of information regarding Stepanian case.

The smear campaign against Arnold Stepanian has been supported by certain media outlets, in particular by the informational-analytical portal apsny.ge and TV-company Real TV, allegations exist that these media outlets are informally controlled by the authorities.

The abovementioned pressure started soon after the Public Movement “Multinational Georgia” initiated meetings between representatives of the ethnic communities of Georgia and leaders of political parties. The meetings aimed at raising awareness of the local communities about the election programmes of different political parties. In particular the first meeting has been held with leaders of the “Alliance for Georgia” and representatives of the Armenian community of Tbilisi.

⁴⁷ Akhalkalaki is a small city in Georgia's southern region of Samtskhe-Javakheti. 90 percent of the city's population are ethnic Armenians.

The Case of “November 7” Activists⁴⁸ (2009)

On the evening of November 23, 2009, Tbilisi patrol police arrested the leaders of “7 November” movement, Dachi Tsaguria, Jaba Jishkariani and Irakli Kordzaia in front of the Parliament building. The leaders were sitting in front of the Parliament building, at the sidewalk, with photos of Amiran Robakidze and Sandro Girgvliani, the young people killed by the policemen, and a poster – “Public TV for People.” They expressed their protest against state policy by a silent action. The patrol police arrived at the Parliament shortly after the action began and arrested the young people. As the chief of Tbilisi patrol police, Giorgi Gegechkori stated, the young people breached the Law on Assembly and Association that as he said, restricts any action within a 50m radius of administrative building. He was present at the time of the arrest.

A trial was held against Dachi Tsaguria, Jaba Jishkariani and Irakli Kordzaia shortly after their detention and a fine in the amount of 500GEL imposed on each of them under administrative law.

The judge applied the law incorrectly, since he specified in the Court decision that the activists were fined because they were sitting at a distance of 25-30m from the Parliament building and thus violated the law; while the Law on Assembly and Manifestations prohibits an action to be held only within the radius of 20m.

The Court decision also states that the activists restricted citizens' movement that they did not disperse when called so by police and resisted them. It is worth mentioning that the Judge's decision was primarily based on testimony provided by the police. The Judge refused to watch video-material that would annul the above-mentioned accusations.

This incident is one of the first precedents of putting into practice the recent amendments to the Law on Assembly and Manifestations. This incident made it clearer that the mentioned law poses a threat to protection and implementation of fundamental rights - the right of assembly and freedom of expression.⁴⁹

The Case of youth movements “Ratom” (WHY) and “Egalitarian Institute”

In 2009 youth activist groups *Ratom* (WHY) and *Egalitarian Institute* reported numerous attacks and harassment against their members, beating up by unidentified men in masks, attempted abduction, etc. None of which has been investigated. Why has also been ousted from the office, reportedly as a result of MIA pressuring the landlord. Their members and activists were detained and fined several times in the course of spring-summer protest actions.

The Human Rights Center (HRIDC)

In September 2009 the office of HRIDC and the home of the director were searched by police, who also demanded addresses, telephone numbers, numbers of car plates of the employees as well as visitors, they were also interested in the issues related to international and national partners and different projects of the organization. Police officers had to quit after they failed to present any warrant or legal document authorizing their demands.

The searches coincided in time with the activities of the HRIDC to expose pressure by law enforcement authorities on a prisoner - Vakhtang Maisaia, a military expert, who was unsuccessfully pressured to give testimonies against around 20 people, including high ranking officials from the government and representatives of diplomatic missions to Georgia, and accuse them with the crime of high treason. (HRIDC had declared Maisaia to be political prisoner earlier that year.)

⁴⁸ The Youth movement was founded in 2007 after the government severely clamped down on thousands-strong demonstrations in Tbilisi on November 7, 2007. “November 7” aims to protect human rights and promote democratic and liberal values in Georgia mostly through peaceful street actions, production of investigative films, video materials on human rights topics, etc.

⁴⁹ <http://www.caucasusnetwork.org/index.php?a=main&pid=109&lang=eng>

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