

SCEEUS GUEST PLATFORM FOR EASTERN EUROPE POLICY NO.9

Media Freedom is Essential for Georgia's Path to EU Candidate Status

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14 November 2022

Unlike Ukraine and Moldova, the June 2022 European Council did not grant Georgia candidate status. Instead, the EU listed 12 conditions that need to be implemented by the spring of 2023. The seventh condition urges Georgia's Government to make more vigorous efforts to guarantee a free, professional, pluralistic and independent media environment, notably by ensuring that criminal proceedings taken against media owners meet the highest legal standards, and that impartial, effective and timely investigations are launched in cases of threats against the safety of journalists and other media professionals. In June 2022, the European Parliament adopted a resolution on violations of media freedom and the safety of journalists in Georgia. The EU should prioritize dealing with the deteriorating media environment as independent media outlets are crucial for holding the government to account and ensuring that Georgia does not slide further into authoritarianism. The EU can now set concrete conditions on media pressure for the Government of Georgia to implement in order to be awarded EU candidate status. Moreover, the EU could step up its financial support to media organizations in Georgia through the European Endowment of Democracy. The Swedish EU Presidency could make support for an independent media a priority issue in its bilateral relations with Georgia.

A free media has long been one of the most critical challenges for Georgia's democratic development and Europeanization. The media landscape in Georgia is pluralistic but political influences are obvious. There are three types of television media in Georgia. The first is either entirely or partly controlled by the government, and includes TV Imedi, PosTV, Georgia's public broadcaster, and Rustavi 2. These channels usually broadcast the Georgian Dream's partisan stance, and their editorial policy is strictly pro-government and often propagandistic. The second type has an editorial policy that is critical of the government. These channels include TV Mtavari, which supports the main opposition party, the United National Movement; as well as TV Pirveli, TV Formula and Kavkasia TV, which are generally critical of the government but do not support any particular opposition party. The third type espouses a far-right and pro-Russian editorial policy. TV Obiektivi and Alt-Info are among these channels. Independent media outlets have come under dramatic attack from the government in recent years. This exposes trends that if not reversed promptly, among other things through the intervention of the EU, could take Georgia past a point of no return towards authoritarianism.

Six main trends concerning the media in Georgia are of serious concern:

Arrests and politically motivated court cases against media managers and owners: The founder and Director of TV Mtavari, Nika Gvaramia, was arrested on 16 May 2022 and sentenced to three and a half years in prison for using the company's car for personal reasons while running another TV channel. His arrest was heavily criticized by NGOs and labelled politically motivated by Amnesty International. On 7 September 2021, the Supreme Court of Georgia sentenced Davit Kezerashvili, owner of 51% of the shares in TV Formula, to five years in prison *in absentia* for the alleged mis-spending of funds when defence minister in 2006–2008. Kezerashvili does not live in Georgia and the Georgian authorities have made several unsuccessful attempts to extradite him in the European courts. Kezerashvili also won in the first instance civil court and appeals court but when the Chief Prosecutor of Georgia became a Supreme Court Justice, previous decisions were reversed. On 29 March 2022, Tbilisi City Court ruled that Kezerashvili must pay €5,060,000 to the Ministry of Defence. The ongoing civil court case could lead to TV Formula being taken off the air and Kezerashvili's property (including TV Formula) in Georgia being seized. Ahead of the next court hearings in December 2022, there is serious suspicion that Georgian Dream could use the well-tested practice of resolving highly political issues just before the Christmas and New Year break.

Financial attacks on independent media: Independent media witnessed a sharp drop in financial inflows last year for four reasons. First, its main fundraisers and crucial figures have either been arrested or had criminal cases instigated against them. The arrest of Gvaramia destabilized Mtavari TV, which was already struggling because of the arrest of a former president Mikheil Saakashvili, who was instrumental in fundraising for the TV station. TV Pirveli suffered financially because its founder's father was under investigation for at least three years. Formula TV operates under constant threat of closure due to the court cases against its founder. Second, legislative amendments to the law on gambling have cut the cash flow to independent media, as it has become virtually impossible for gambling companies to air advertisements on Georgian channels. Third, Georgia's National Communications Commission (GNCC), which is often accused of extreme bias, has imposed hefty fines on independent media outlets. Meanwhile, ongoing court cases mean that in many cases bank accounts have been frozen, making it impossible to obtain credit. Fourth, explicit or implicit pressure on business from the authorities prevents investors from injecting financial resources into critical TV stations. The court cases against media owners and directors have had a chilling effect on the ability of the TV companies to raise funds. These problems are exacerbated by the fact that all media stations, including pro-government ones, are loss-making.

Violent crimes against journalists are not investigated: The government has not brought to justice any of the perpetrators of the massive attack on journalists by violent far-right groups in Tbilisi on 5 July 2021 in connection with the cancelled Tbilisi Pride Parade. Before that, in June 2019, the police used rubber bullets and injured several journalists attending a peaceful anti-Russian demonstration, but nobody was arrested. There have reportedly been over 90 cases¹ of violence against journalists in the past three years.² Most of these were either not investigated or ended with symbolic punishments for the perpetrators. A scandal broke in 2021 when leaked state security files showed that the security services were tapping and listening to independent media journalists. The journalists went to court but no investigation has been concluded and no perpetrator has been charged.

1 <https://www.qartia.ge/en/news/article/73297-appeal-by-the-journalists-to-the-georgian-government-the-georgian-interior-minister-and-the-diplomatic-corps-accredited-in-georgia>

2 <https://www.hrw.org/world-report/2022/country-chapters/georgia>

Silencing independent media through libel actions: Georgian legislation on the freedom of speech is extremely liberal so it is almost impossible to sue someone for libel. In recent years, however, government politicians and civil servants appear to be filing coordinated libel lawsuits against critical TV channels. Civil courts respond to these claims positively and fine media representatives, often erroneously referring to *McVicar v. the United Kingdom* ECtHR to argue that in cases of libel the burden of proof of the veracity of the facts or statements is on the media rather than the person whose reputation is allegedly at stake. *McVicar* is not a landmark case for Article 10 of the European Convention on Human Rights (Freedom of Expression). It is relevant only in British law, where unlike Georgia the burden of proof is not set in cases of defamation and the courts have discretion to make their own decision. In Georgia, however, the law is very clear: the burden of proof cannot be put on the media.

Constant boycotts and attacks on the independent media by the government and the ruling party: Generally, relations between the ruling party and media outlets that are critical of the government, and between the opposition parties and pro-government media, are incredibly unhealthy. The authorities are constantly boycotting the critical press, even during election campaign periods, while the opposition parties are seldom invited on to the broadcasts and debates of the pro-government channels. Moreover, the general attitude of the government vis-à-vis journalists who are critical of the government is borderline bullying, name-calling and shaming. This attitude prevents media companies from playing their journalistic roles. The outcome is that the media landscape is highly polarized and the polarization agenda of Georgian Dream finds fertile roots in media behaviour.

Media outlets often serve as instruments of propaganda for either the Government or the opposition: A particularly worrying propaganda message, that “the West wants Georgia to engage in the war”, has been pushed by pro-government media sources in recent times. By contrast, the independent media accuse the government being pro-Russian and betraying Georgia’s national interests. The television media is primarily responsible for establishing a polarized political landscape in Georgia.

How Can the EU Address This Problem?

- The European Union has imposed media-related conditionalities as part of its 12 recommended actions. It now needs to make these more concrete either publicly, or in private in discussions with the government in bilateral or human rights dialogue meetings. A number of concrete policy actions by the EU institutions and member states are listed below. To make these policy recommendations more credible, the EU should link their implementation to granting Georgia EU candidate status. This would be the surest and fastest way to guarantee that the ruling party of Georgia takes them seriously.
- The Georgian Government must suspend attacks on media outlets, end the court actions and release Nika Gvaramia. This could be raised with President Salome Zourabichvili, who has the power to pardon convicted persons.
- The Prosecutor’s Office in Georgia should suspend criminal proceedings against independent media organizations such as Formula TV and its owner David Kezerashvili, TV Pirveli and its owner Avtandil Tsereteli, and Mtavari TV and its founder and director Nika Gvaramia, either through amnesties or by other legal means prescribed in Georgian legislation.

- The Georgian Government and the Georgian National Communications Commission must cease unnecessary, discriminatory treatment and fining of independent media, and allow the press to air social and political advertisements in non-election periods.
- The EU institutions should consult with the EU member states on the allocation of several million euros to independent media outlets and NGOs in Georgia, which could be dispersed through the European Endowment for Democracy.
- The EU could decide to redirect the sums needed to assist Georgian media from the macro-financial or budgetary assistance that the Government of Georgia regularly receives from it.
- The EU could link the depolarization and media freedom conditionalities to a verbal and written obligation on the ruling and opposition parties to engage in political debates on all television channels. The inability to pursue dialogue in the televised media is one of the main factors contributing to the polarised rhetoric of political stakeholders.
- The EU could introduce personal sanctions, such as travel bans or asset freezes, on politicians, judges or prosecutors who make clearly politicized decisions that restrict media independence, and on the owners and anchors of those media channels who are directly engaged in promulgating an anti-Western campaign that blames the EU and the US for starting the war in Ukraine and attempting to drag Georgia into a fight with Russia.



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