



ARBITRARY AND REPRESSIVE MEASURES RESTRICTING JOURNALISTIC ACTIVITIES IN PARLIAMENT



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Arbitrary and repressive measures restricting journalistic activities in Parliament

Social Justice Center
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Introduction

On April 3, 2024, the government re-introduced the anti-constitutional law restricting and discrediting the activities of civil society and media in the parliament, which was retracted exactly 1 year ago after mass protests and made a public promise that it would no longer put this initiative on the political agenda. This year, the government initiated the bill with the same text. Only the terms were changed and the term "agent of a foreign country" was [replaced](#) by the term "organization carrying the interests of a foreign power".

Against the background of the parliamentary discussions of the draft law and the mass peaceful protests organized against it, the issue of the restrictive legal regime for the work of the media was again put on the agenda in the parliament. As is known to the public, the new rule of accreditation of journalists was approved in the Parliament of Georgia 1 year ago, on February 6, 2023, and on September 4, 2023, the rules ensuring security of the Parliament were tightened. The mentioned two legal acts are used by the authorities against journalists and limit their opportunities to carry out journalistic activities during the consideration of almost all important legislative issues.

Similar to the previous year, this year the entry to the Parliament of Georgia was again restricted to accredited online, print media and radio journalists. Only a few television journalists were [allowed](#) to work in the legislative body. According to the statement published on the website of the Parliament, the decision was made due to "additional security measures". However, it was not explained what kind of danger journalists pose by working in the parliament. [According to Shalva Papuashvili](#), the Speaker of the Parliament of Georgia, the restriction of the entry of accredited online media journalists to the Parliament was caused by the fact that instead of carrying out journalistic activities, they protested the adoption of the Russian law, which was an abuse of rights and a violation of journalistic ethics.

The mentioned restrictive approaches were used on a full scale yet in the previous year by the Parliament. **At the first stage, the Parliament suspended the accreditation of journalists, due to the protest organized by them in the Parliament.** In particular, on March 5, 2023, it became known to Publika and Tabula that the accreditation of some of the journalists of the mentioned online editions was suspended in Parliament. According to the media, this decision of the Parliament apparatus is related to the protest against the Russian law held on March 2. Some of the journalists whose accreditation was suspended protested the Russian law in the parliament, while some covered this issue.¹

The Parliament apparatus also suspended the accreditation of more than one journalist due to the violation of Article 15, Clause 2 of the new accreditation rule, which obliges the journalist to terminate the interview in the event of refusal by a member of the parliament, an employee of its apparatus, or a person visiting the legislative body. Based on this rule, in April 2023, the accreditation of 3 TV journalists and cameramen was suspended. In particular, the accreditation of the journalists of "TV Pirveli" and "Mtavari" was [suspended](#) due to the incident of the question

¹ Charter calls on the Chairman of the Parliament of Georgia to restore the accreditation of journalists <https://www.qartia.ge/ka/siakhleebi/article/94008-qartia-moutsodebs-sagarthvelos-parlamentis-thavmjdomares-aghudginos-zhurnalitebs-akreditacia>

posed to the deputy of "Georgian Dream", Eliso Bolkvadzi, which was related to the issue of sanctions imposed by the US State Department on 4 Georgian judges. The journalist of the TV company "Formula" was suspended accreditation due to the [questions posed about](#) the presenter and founder of "Post TV", the chief propagandist of the government, Shalva Ramishvili, to the representatives of the ruling political party on the allegations about cases of sexual harassment of several women from his side. In the month of May 2023, the accreditation of "Formula" journalist and cameraman were suspended due to asking a question about the imposition of a visa-free regime by the Russian Federation to the member of the parliament Irakli Zarkua. MP Irakli Zarkua appealed to the Chairman of the Parliament, Shalva Papuashvili, with the request to suspend their accreditation. Zarkua expressed dissatisfaction with the journalist's questions [related to](#) Putin's decision to establish a visa-free regime for Georgian citizens and restore direct flights.

The analysis of the practice of restricting the activities of journalists during the last 1 year shows that the Speaker of the Parliament suspends the accreditation to many journalists based on his own order and, using the new rules established within the Parliament, deprives the media of the possibility of effective and unrestricted coverage of the parliamentary life. Parliament is the main political body in a democratic state, and the restrictions and limitations imposed in this space have a heavy impact on the media environment and the quality of democracy in general in the country.

The purpose of this document is to analyze the compliance of the rules of accreditation of journalists and of protection of the parliament approved by the Parliament of Georgia with the rights guaranteed by the constitution and the impact of their action on freedom of press.

1. Rules regulating journalistic work in the legislative body

1.1. New rule of accreditation of journalists in the Parliament of Georgia

On February 6, 2023, the Parliament of Georgia approved a new accreditation rule for mass media representatives. The document imposed various restrictions on journalists, including on entering the parliament building. According to Article 2 of the order, two types of accreditation are issued in the Parliament of Georgia - parliamentary journalist accreditation and special accreditation. Parliamentary journalist accreditation is issued to a journalist of a mass media (media outlet) registered in Georgia for a period of 1 year, for each calendar year and is valid from January 1 to December 31 of the calendar year. And special accreditation is issued to the journalist who does not have the accreditation of the parliamentary journalist. The order specified the number of accredited journalists in contrast to the previously valid accreditation norms. In particular, according to the order, public broadcasters have the right to accredit 7 camera crews, other TV stations - 3 camera crews, online editions - 4, and magazines- newspapers and radio stations have the right to accredit 2 journalists each.

According to paragraph 2 of Article 15 of the Order, an accredited journalist is obliged to:

a) not to interfere with the events taking place at the Parliament of Georgia;

b) not to shoot the working room of a member of the Parliament of Georgia or an employee of the office without prior permission;

c) to terminate the interview in case of refusal to record the interview by a member of the Parliament of Georgia, an employee of the office or a person visiting the Parliament;

d) without the consent of a member of the Parliament of Georgia, of an employee of the office or a person visiting the Parliament, not to shoot their document, the screen of their phone or other electronic device in such a way that the information or image on it is legible;

e) not to allow obscene, sexist, discriminatory appeals or actions to a person in the Parliament of Georgia;

f) to obey the legal instructions of the security officer and the Officer of the Office Resource Officers;

g) not to transfer the accreditation certificate to another person;

h) to carry the accreditation certificate in a visible place.

In case of violation of the mentioned rules, by the decision of the head of the apparatus, the accreditation of the journalist may be suspended for 1 month. In case of repetition of the violation, the accreditation of the accredited journalist will be suspended for 6 months. In such a case, it is not allowed to replace the journalist, whose accreditation has been suspended for the period determined by the first paragraph of this article, with another journalist.

Until now, the rules of accreditation of journalists in the Parliament were not systematized in a separate document, however, journalists working in the Parliament could enter and work in the Parliament, using special passes, just as this is now. However, the new regulation limited the right to ask a question to a member of parliament, if the member of parliament does not want to answer this question, and also restricted shooting the documents, and screens of the phones, and electronic devices of the member of the parliament, and determined this as a basis for suspension of accreditation. In addition, the current arrangement determined the number of accredited journalists in the parliament and limited it.

2.2 New security rules for Parliament protection

In addition to the accreditation rules for journalists, on September 4, 2023, the legislative body additionally tightened the security rules for the Parliament.² The Chairman of the Parliament was given the opportunity to limit both the issuing of special accreditation to journalists and the entry of journalists with accreditation into the Parliament building for reasons of security.

On September 4, 2023, by the order of the Speaker of the Parliament regarding security protection in the Parliament Palace of Georgia and the surrounding area, the security levels in the Parliament were determined: 1. Red level - in the event of a natural disaster, an attack on the Parliament Palace of Georgia, or any other immediate danger that poses a danger to the lives and

² Rules for security protection in the Georgian Parliament Palace <https://web-api.parliament.ge/storage/files/8/chairman/brdzaneba-2023/1-259-23.pdf>

health of the persons in the Parliament Palace; 2. Yellow level - occurs when there is a risk of disturbing work environment or safety in the Parliament Palace. 3. Green level - in the event that no red or yellow security level is declared, the green security level applies, without special restrictions.

During the yellow security level, the following restrictions may be applied by order of the chairman, separately or simultaneously:

- *Visitors should be restricted from entering the Georgian Parliament Palace. In addition, visitors staying in the Georgian Parliament may be told to leave the building;*
- *Only visitors with a visitor's pass approved by the chief of the apparatus of the Parliament of Georgia, should be allowed to enter the Palace of the Parliament of Georgia, if their entry into the Parliament Palace is necessary for the smooth operation of the Parliament of Georgia,*
- *Restrict issuing of special accreditation for journalists and/or restrict the access of accredited journalists to the Palace of the Parliament of Georgia.*

During the yellow level of security in the Parliament Palace of Georgia, movement in different areas of the Parliament Palace may be restricted by the decision of the chief of apparatus of the Parliament of Georgia. In case of a violation of this rule by a visitor, the Chairman of the Parliament of Georgia, based on the assessment of the severity of the violation and the risk of its repetition, is authorized to take preventive measures, in particular, to restrict the visitor's entry to the Palace of the Parliament of Georgia for a period of up to 1 year.

According to Article 7, Clause 2 of the Rule on Security Protection in the Palace of the Parliament of Georgia, the visitor is prohibited from displaying a banner and distributing informational material in the Palace of the Parliament of Georgia, as well as pasting or otherwise displaying materials intended for demonstration (posters, banners, inscriptions, etc.) and/or bringing such materials without the permission of the Speaker of the Parliament inside it.

Contrary to the order of the Chairman of the Parliament of Georgia No. 259/3 of December 30, 2016, regarding the security protection regime in the Palace of the Parliament of Georgia and the surrounding area, visitors to the Parliament are restricted from bringing banners, posters, and sound-amplifying signals into the Parliament. Three levels of security have also been added in the Parliament, the exclusive right of the announcement of which is in the hands of the Chairman of the Parliament.

3. Legal assessment of the legislative changes

3.1. Rules of accreditation of journalists in the Parliament of Georgia

- **Wide discretionary powers**

It should be noted that the order issued by the Speaker of the Parliament of Georgia does not contain a number of procedural guarantees that would allow for the protection of journalists'

rights from arbitrary decisions. The broad discretion granted to the Speaker of Parliament allows him to arbitrarily limit accreditation to journalists who are distinguished asking critical questions. The Speaker of the Parliament can suspend the accreditation of a journalist if he/she does not stop the interview after the member of the Parliament of Georgia, an employee of the apparatus or a person visiting the Parliament refuses to be interviewed.

The Constitution of Georgia protects the right to receive and disseminate information, but this does not include the right of parliament members to be protected from critical questions posed by journalists. This kind of arrangement implies the restriction of journalistic activity, which will 'chilling effect' on the spread of a different opinion in society. Under the current rule, journalists may avoid asking critical questions to the ruling party for fear of suspension of accreditation, and on the other hand, according to the order, if a parliamentary journalist violates the mentioned rules, by the decision of the chief of staff, his accreditation may be suspended for one month. In case of repeating the violation, the journalist's accreditation will be suspended for 6 months. It is important to say that the accreditation rules do not provide for the principle of using less restrictive means before suspending the accreditation in case of possible violation by the journalist.

According to the decisions of the Constitutional Court of Georgia, freedom of expression is harmed if an individual is forced to self-restrict and self-censor his/her freedom of action due to fear of expected responsibility/sanction, which, in itself, is equivalent to disproportionate restriction of this right³.

"The right to freedom of expression is one of the necessary prerequisites for the existence of a democratic society and its full development. One of the main purposes of the right guaranteed by Article 17 of the Constitution of Georgia is to ensure the free dissemination of information through publicly available sources, which is mainly carried out through mass media. Thus, the mass media is one of the central, large-scale and effective platforms for the free reception and dissemination of information as well as for the formation of opinion by society and individuals. It is the unhindered, autonomous, regular and independent activity of the mass media that determines the practical and effective realization of the freedom of opinion and expression by the society and each individual⁴. Unhindered dissemination of opinion and information ensures diversity of views, promotes public and informed discussion on issues important to society, makes possible the involvement of every member of society in public life.⁵

In this regard, the jurisprudence of the European Court of Human Rights is interesting. The case *MÁNDLI AND OTHERS v. HUNGARY*⁶ concerned an application in which the plaintiffs were represented by various online media publications and they disputed the arbitrary restriction of their journalistic activities in the Parliament building. In particular, they received accreditation from the Hungarian Parliament to attend the April 25, 2016 plenary session.

³ Decision No. 2/2/516,542 of the Constitutional Court of Georgia dated May 14, 2013 in the case "Citizens of Georgia - Aleksandre Baramidze, Lasha Tughushi, Vakhtang Khmaladze and Vakhtang Maisaya against the Parliament of Georgia". <https://matsne.gov.ge/ka/document/view/1925761?publication=0>

⁴ Decision No. 1/5/675,681 of the Constitutional Court of Georgia dated September 30, 2016 in the case " Broadcasting Company Rustavi 2 LLC" and "TV Georgia LLC" against the Parliament of Georgia", II-71,72

⁵ Decision No. 1/1/468 of the Constitutional Court of Georgia dated April 11, 2012 in the case "Public Defender of Georgia against the Parliament of Georgia", II-26.

⁶ CASE OF MÁNDLI AND OTHERS v. HUNGARY <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-202540%22%7D>

On 25 April 2016, the complainants recorded several interviews with members of the ruling coalition party, including the Speaker of the Parliament, in the Hungarian Parliament building, regarding illegal decisions made by the National Bank of Hungary. *The complainants asked the members of parliament questions without prior agreement in the part of the parliament building that was not intended for video/photo shooting (Cupola Hall)*. While recording the interviews, the applicants received a warning from the press service of the Parliament that they were shooting in a location that was not intended for shooting. After the interview was recorded, the information obtained by the complainants was published in several online media. *The Chairman of the Parliament suspended the accreditation of the complainants within the scope of his powers on the basis of the Parliament's Regulations and informed the leadership of the concerned media about it*. The decision to suspend the accreditation stated that: "despite repeated warnings from the press office, the journalists continued recording and did not leave the area of the parliament, which was not intended for recording the interview."

The European Court of Human Rights considered that the 5-month suspension of accreditation for the applicants by the Speaker of the Hungarian Parliament meant depriving the applicants of the opportunity to access information from the Parliament building, which has significant value for carrying out journalistic activities. Thus, the court did not share the government's argument and came to the conclusion that there was a violation of Article 10 of the Convention and interference in the right to access to information and freedom of expression.

- **Absence of procedural guarantees**

The new rule of accreditation of journalists does not provide for a number of procedural guarantees, which are important for journalists to protect their rights. In particular, the head of the apparatus of the Parliament of Georgia makes a decision on suspension of accreditation without considering the position of journalists. In this process, the issue of fair and reasonable balancing between private and public interests is not taken into account. The chief of the apparatus of the Parliament of Georgia does not access what is more important for a democratic society: the journalists to exercise of their rights in the parliament building, or the discomfort created for the parliamentarians by the journalist asking questions or recording interviews.

The European Court of Human Rights has repeatedly underscored the politicians' strong obligation for tolerance when it comes to issues around which political debates are taking place or to which the public's attention is directed. According to the court, the limits of acceptable criticism are wider when it comes to a politician in comparison to a private person. A politician consciously puts himself in the center of public attention, his words and deeds inevitably become the object of surveillance by journalists and society as a whole, therefore the politician has a greater obligation to be patient. Answering critical questions is not parliamentarians' desire. As the European Court of Human Rights has repeatedly pointed out, *"a politician consciously puts himself in the center of public attention, his words and actions inevitably become the object of surveillance by journalists and the public as a whole, therefore the politician has a greater obligation to be patient."*⁷

⁷ Lingens v. Austria, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-57523%22%7D>

The practical purpose of the accreditation of journalists is to ensure the normal functioning of the institution, to maintain order and for journalists to carry out their activities according to predetermined rules⁸. The procedure of accreditation of journalists in the parliament is found in many European countries⁹, however, the rules established by the accreditation procedure mustn't provide an unjustified barrier to obtaining information and should enable the media/its representatives to carry out its main purpose - to inform the public. For example, in Estonia, media representatives (journalists, photographers, cameramen) can enter the parliament with press cards issued by media organizations. The Estonian Parliament can also issue accreditation, the so-called permanent accreditation is issued to media representatives by the press office of the Parliament. In Finland, as in Estonia, media representatives are admitted with press cards or ID cards, however, approximately 100 journalists and 80 photographers are accredited by the Parliament. The only difference between accreditation and press card is that the procedures for accredited media outlets to enter the parliament are simpler.

- **Blanketness and irreversibility of the decision**

According to the order, the identity of the initiator of the recording of the interview is not taken into account when making the decision, and the suspension of accreditation applies not only to the journalist who continues the interview after the refusal but also to those persons with special accreditation who technically ensure the recording of the interview, such as cameramen. It is especially emphasized that in this case, it is not allowed to replace the journalist, whose accreditation has been suspended in the period defined by the first paragraph of this article, with another journalist.

The European Court of Human Rights has emphasized in several cases the important role of journalists and their function to provide information to the public. *SELMANI AND OTHERS v. "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"* case is also related to interference in the activities of journalists in the parliament. In this case, members of the parliament confronted each other in the parliament building, after which the defense expelled the complaining journalists, together with the parliamentarians, from the parliament and did not allow them to provide the public with information about the events that took place in the parliament building. The European Court of Human Rights in its decision on this case emphasized the important role of journalists in a democratic society and their function to provide information to the public. The court noted that the media in general has the duty to provide the public with information regarding the ongoing processes in the parliament and, on the other hand, the public has the right to receive such information. The court noted that the so-called "watchdog" role of the media is important, and when such events are covered, any attempt to remove journalists from such places should be subject to strict scrutiny. The court emphasized that such an approach is critical when journalists are providing information to the public about members of parliament elected by the public and how the government deals with any disturbances that arise during parliamentary sessions. It is also worth noting that, despite the fact that journalists were expelled from the parliament to protect order, the European Court did not consider this reason to be sufficient and

⁸ Dunja Mijatovic, Organisation for Security and Co-operation in Europe The Representative on Freedom of the Media, Accreditation of Foreign Journalists in the OSCE Region, 4-8.

⁹ Charter of journalistic ethics of Georgia, international practices regarding media accreditation.
https://drive.google.com/file/d/1D29ige6SkClf_2elzArgKmtGgV94zsz2/view

determined that the government failed to prove that the expulsion of journalists from the parliamentary session was necessary for a democratic society and that it met the "demands of an urgent social need", which is why it established a violation of Article 10 of the Convention.

3.2. Security rules for the protection of the Parliament

- **Wide discretion**

The Speaker of the Parliament can, in each specific case, without issuing new orders, through a general and blanket reference to the "Parliament Protection Rules", announce respective security levels in the Parliament and to set restrictions accordingly.

The regulation does not take into account the maximum terms within which the mentioned restrictions can be enacted, and leaves the exclusive decision-making authority only to the Chairman of the Parliament. Wide discretion allows the Chairman of the Parliament to impose the following restrictions with the "formal argument of security". For example:

- restrict issuing special accreditation of journalists and/or restrict the access of journalists with accreditation to the Palace of the Parliament of Georgia;
- *Not to allow expression of opinion through inscriptions and banners in the Parliament building, even if the use of said inscriptions does not create a risk of disruption of order.*

The limitation of freedom of expression based on the challenged norms is especially alarming in the conditions when, in case of violation of the rules established by the order, the Chairman of the Parliament of Georgia is authorized to implement a preventive measure based on the assessment of the severity of the violation and the risk of its repetition, in particular, to restrict the visitor from entering the Georgian Parliament Palace for a period of up to 1 year. Accordingly, based on the challenged norms, if a person expresses his position in the Parliament through an inscription, banner or a poster without breaking the order, the Chairman of the Parliament may sanction the person and the person will not be able to enter the Palace of the Parliament of Georgia for 1 year.

- **Gross interference with freedom of expression**

Norms prohibit all individuals wishing to enter the Parliament Palace from bringing items intended for demonstration without the permission of the Parliament of Georgia, and in case of entry, they prohibit the display of banners, distribution of informational materials, as well as the posting or other placement of materials intended for demonstration. However, taking into account that the introduction of items and other devices intended for demonstration depends on the permission of the Parliament's apparatus, the said authority may be used as a mechanism of substantive control of freedom of expression. In particular, there is a risk of abusing the mentioned authority, as the Parliament apparatus may restrict the entry of demonstration items and other devices with undesirable content into the Parliament Palace. In addition, the order of the Speaker of the Parliament does not provide a mechanism to safeguard the abuse of authority within the scope of the specified authority, which increases the risk of such practice. The

regulation is especially absurd when visitors can express their opinion orally, but they are forbidden to express it in writing, on a banner, or by any other means that is not violating the order.

Conclusion

Thus, it is clear that the new accreditation and security rules operating in the Parliament of Georgia create risks of unjustified interference in journalistic activity and show the government's interest in limiting and complicating the free and unrestricted activities of the media in the Parliament, as in the main political body in a democratic system. More precisely:

- The new accreditation regulations adopted by the Parliament are stricter than the regulations in force in previous years. The blanket restriction of the number of camera crews and journalists of accredited media organizations in the Parliament is unfair and it puts online and print media in an unequal position and deprives them of the opportunity to work properly in the Parliament and inform the public properly;
- The new accreditation regulations create arbitrary rules, and rules without due process guarantees (including the right to self-defense) for the accreditation and undertaking journalistic activities in the Parliament and assigns the mandate of making such restrictive decisions to the Chairman of the Parliament alone and exclusively;
- Journalists are practically denied the opportunity to ask critical questions in the parliament building because the new accreditation rules give parliament members wide discretion not to answer questions they don't want, and make the journalists' legitimate stubbornness to obtain important information for the public a reason for suspending their accreditation in the parliament;
- The new accreditation rules also restricted the taking of the documents, phone, electronic device screen of the member of parliament and even considered it as a basis for suspension of accreditation;
- The new accreditation rules do not recognize the use of less restrictive means before suspending accreditation. At the same time, it allows for automatic suspension of accreditation for other members of the shooting crew during the withdrawal of accreditation for the journalist;
- The new accreditation rules do not give a media organization the opportunity to replace a journalist whose accreditation has been suspended with a new journalist and significantly hinders media organizations' access to parliamentary life and ultimately their activities.
- The Chairman of the Parliament, without issuing new orders, has the right, through a general and blanket reference to the "Parliament Protection Rules", to announce the respective security levels in the Parliament and set restrictions. The regulation does not mention maximum duration for the restrictions;
- Forms of expression of opinion and protest or expression of solidarity are significantly limited for the media in the parliament building, and even when journalists' forms of expression do not violate public order, they are theoretically deprived of freedom of expression in the parliament building, at the main political organ of a democratic state.

It is clear that the arbitrary bureaucratic and legal restrictions imposed on the work of the media within the parliament building once again reflect the [complicated situation of the media](#) in the country, which is manifested in the practices of persecution of journalists, physical attacks, illegal wiretapping, disinformation accusations and the use of hate speech, among other trends. According to Reporters Without Borders (RSF), the quality of Georgia's media environment has

deteriorated so much that it is included in the group of countries that are considered to have a difficult situation. According to IREX's Information Resonance Barometer, from 2021-2022, Georgia's media environment has [strongly negative data](#).

It is clear that in the conditions when the government is in a boycott mode with critical media and thereby deprives the public of the opportunity to hear different opinions, restricting the activities of journalists inside the parliament makes it even more difficult for the work of the media and ultimately, the functioning of democracy in the country.