

## How Free is Internet in Georgia and How Sustainable is That Freedom?

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The need and importance of the internet has been constantly rising in the modern world with Georgia being no exception. According to the Caucasus Research Resource Centre's (CRRC) 2021 survey, 66% of the surveyed people in Georgia uses internet every day.<sup>2</sup> Moreover, this figure has been growing annually. In light of this trend, paramount importance is attached to the degree of freedom of internet from unlawful interference and to what extent are individual freedom of expression, right to private life, right to property and other constitutionally guaranteed rights protected in this domain. Freedom of internet is recognized by the Constitution of Georgia as section four of article 17 says that "Everyone has the right to access and freely use the internet".<sup>3</sup> This entry has been added to the Constitution since 2018.

However, it is one thing how this or that right is manifested in different laws of a country and the other and often more important is how they are respected in reality. At the first glance, we may say that internet in Georgia is free, there is no censorship and authorities do not interfere blatantly in this field. However, challenges still persist both at legislative level and in practice. This paper offers an overview of similar issues and occurrences. To this aim we can use Freedom Houses' Freedom on the Net international index which assesses internet domain of the world countries, including that of Georgia's, from the lenses of impartial outside observer. In addition, it allows to draw comparisons with the other countries in this respect and fathom the trend through time (this index has been published since 2016).

Freedom House's methodology<sup>4</sup> consists of 21 questions and nearly 100 sub-questions. In turn, these questions are divided into three categories: 1. Obstacles to access internet – surveys those infrastructural, economic and political barriers that a specific country's citizens have to face. In particular, these include government decisions to shut off connectivity or block specific applications, legal regulatory control over internet service providers; and the independence of regulatory bodies 2. Limits on Content - analyzes legal regulations on content in the internet, facts of technical filtering and blocking of websites; other forms of censorship and self-censorship; the vibrancy and diversity of online information space; and

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<sup>2</sup> Caucasus Research Resource Centre (CRRC). (2021). *Caucasus Barometer Georgia – Frequency of Internet Usage (%)*. Accessible at: <https://bit.ly/3WPMscb> (09.11.2022).

<sup>3</sup> Georgia's Legislative Herald. *The Constitution of Georgia*. Accessible at: <https://bit.ly/3UmzYqR> (09.11.2022).

<sup>4</sup> Freedom House. *Freedom of the Net Research Methodology*. Accessible at: <https://bit.ly/3htnlvg> (09.11.2022).

the use of digital tools for civic mobilization. 3. Violations of User Rights - tackles legal protections and restrictions on free expression; clandestine surveillance and privacy; and impact of such issues for online activities as imprisonment, cyberattacks, physical violence, etc. Under each question, a higher number of points is awarded for a freer situation, whereas a lower number of points is awarded for a less free environment points add up for each of the subcategories, and a country's final points (0-100) are sum of all three. Based on the score, Freedom House assigns the following internet freedom ratings: 70-100 Free; 40-69 Partly Free and 0-39 Not Free. Of additional note is that country report and respectively, the points awarded, cover a period from 1 June to 31 May of a specific year (for instance 2022 report reflects a period from 01.06.2021 to 31.05.2022).

In 2022, Georgia's Freedom of the Net points are 78 (out of 100) and as a result it belongs to the groups of countries with internet freedom.<sup>5</sup> Of further note is that with this indicator Georgia ranks 7<sup>th</sup> among 70 countries.<sup>6</sup> In regard to previous years and points by categories, it looks as follows:

**Table 1:** Georgia's Figures in the Freedom House's Freedom on the Net Index

Year	Total Points Out of 100	Obstacles to Access Internet, Out of 25 Points	Limits on Content Out of 35 Points	Violations of User Rights Out of 40 points
2016	75	17	29	29
2017	76	18	29	29
2018	75	19	29	27
2019	75	19	30	26
2020	76	19	31	26
2021	77	19	31	27
2022	78	19	31	28

Source: Freedom House – Freedom on the Net

As illustrated by the graph, Georgia's indicators in the Freedom House's Freedom on the Net index remains virtually unchanged for years and the country's internet freedom is steadily maintained. However, there are some problematic fields which hinders further progress. One of such issues is the

<sup>5</sup> Freedom House. (2022). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3tduRNN> (09.11.2022).

<sup>6</sup> Statista. (20 October, 2022). *Degree of internet freedom in selected countries according to the Freedom House Index 2022*. Accessible at: <https://bit.ly/3EhZ6JD> (09.11.2022).

Georgian National Communication Commission’s resolution from 17 March 2006 “On Approval of Regulations on Service Provision and Consumers Rights Protection in the Sphere of Electronic Communications”. According to the section ii of Article 3 of that resolution there is a concept of “inadmissible production” which is clarified as follows: “production transmitted by means of electronic communications, such as pornography, items featuring especially grave forms of hatred and violence, invading on a person’s privacy, as well as slanderous, insulting, violating the principle of presumption of innocence, inaccurate, and other products transmitted in violation of intellectual property rights and the Georgian Legislation”.<sup>7</sup> Of note is that in accordance with the 2 August 2019 ruling №1/7/1275<sup>8</sup> of the Constitutional Court of Georgia, most of the entry about inadmissible production fails to meet formal requirements of the Constitution. In particular, the problematic parts are as follows: featuring especially grave forms of hatred and violence, slanderous, insulting, violating the principle of presumption of innocence and inaccurate. The Court concluded that the Parliament of Georgia had not delegated to the administrative body (GNCC) right to restrict abovementioned production and it is “wrong in principle for a body lacking relevant legislative competence to make decisions on issue of such importance [pertaining freedom of expression]”.

Despite this ruling, the GNCC’s resolution on consumer rights include three other elements, based on what dissemination of specific information can be restricted. These elements are as follows: pornographic production, products transmitted in violation of intellectual property rights and any other information transmitted in violation of the Georgian legislation. The latter contains particularly huge risk, because given its general essence it could potentially be used for curbing freedom of thought in the internet.

Yet another regulation which threatens freedom of internet in Georgia is within the Law of Georgia on Information Security.<sup>9</sup> As a result of amendments enacted in this law (amendments went into force by the end of 2021), LEPL Operative-Technical Agency of the State Security Service (SSS) has become a body which assumed the role of regulator, provider of accreditation and enforcer among other agencies

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<sup>7</sup> Georgia’s Legislative Herald. *Georgian National Communications Commission’s Resolution №3 “On Providing Services and Protection of Users’ Rights in the Field of Electronic Communications”*. Accessible at: <https://bit.ly/3DWthot> (09.11.2022).

<sup>8</sup> Georgia’s Legislative Herald (2 August 2019). *Ruling of the First Collegium of the Constitutional Court of Georgia №1/7/1275 – Aleksandre Mdzinarashvili v Georgian National Communications Commission*. Accessible at: <https://bit.ly/3hi2FX6> (09.11.2022).

<sup>9</sup> Georgia’s Legislative Herald. *Law of Georgia On Information Security*. Accessible at: <https://bit.ly/3G1xoSM> (09.11.2022).

in the field of cyber-security on the one hand and functions of control and supervision on the other hand.<sup>10</sup> According to the Freedom House's 2020 report which highlights this regulation which at that time was still a draft law, reads: "Authority of OTA would extend over an expansive list of critical infrastructure, including public institutions and telecommunications companies. The proposed amendments were met with harsh criticism from civil society groups, the tech community, and others, who argued that they do not respond to the country's existing cybersecurity challenges, risk giving the OTA control over ISPs' information systems and violate the country's constitutional guarantees (e.g., to privacy) as well as its international obligations."<sup>11</sup>

In July 2020, GNCC introduced controversial amendments to the Law of Georgia on Electronic Communications, giving itself a right to appoint a "special manager" in tele-communication companies who would execute the GNCC's decisions.<sup>12</sup> This regulation was negatively assessed by the Venice Commission. On top of multiple problematic factors, the Venice Commission also identified the threat of curbing freedom of expression/media freedom, because the law may be applied to electronic communication and internet providers which provide respective services to the broadcasters or operate as broadcasters.<sup>13</sup>

Further to the abovementioned, Georgia faces other challenges in terms of freedom of internet such as blocking of websites. The report of the Institute for the Development of Freedom of Information reads that "DNS blocking (Domain Name System Blocking) is actively used in Georgia. This technique allows one to completely block a web page, but not the specific information posted on the web page. It may, in some contexts, pose a significant problem in terms of the proportional restriction of digital rights... (p. 16). The rights and obligations of the ISPs and domain registrars in terms of restricting Internet content are not clearly defined. The current model for restricting Internet content is not transparent. Quantitative

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<sup>10</sup> Institute for Development of Freedom of Information (IDFI). (12 February 2020). *Draft Law on Information Security and Associated Threats*. Accessible at: <https://bit.ly/3FZBxXe> (09.11.2022).

<sup>11</sup> Freedom House. (2020). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3EgXWOn> (09.11.2022).

<sup>12</sup> Georgia's Legislative Herald. *Law of Georgia On Electronic Communications*. Accessible at: <https://bit.ly/3UIcmN6> (09.11.2022).

<sup>13</sup> EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). (22 March, 2021). *JOINT OPINION OF THE VENICE COMMISSION AND THE DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW (DGI) OF THE COUNCIL OF EUROPE ON THE RECENT AMENDMENTS TO THE LAW ON ELECTRONIC COMMUNICATIONS AND THE LAW ON BROADCASTING*. Accessible at: <https://bit.ly/3NP4ver> (09.11.2022).

and qualitative data on blocked websites/information and requesting institutions are unavailable in Georgia (p. 30).<sup>14</sup>

Of note is that this uncertainty has become an issue several times in the past few years. For instance, after leak of footage of private lives of some Georgian politicians, the authorities, having failed to remove a specific video, twice blocked access to YouTube, where those footages were uploaded, from Georgia. According to the Freedom House's report,<sup>15</sup> the first such incident took place on 11 March 2016 and lasted for 20 minutes. It concerned the users of the Caucasus Online only. Three days after, YouTube was again inaccessible for an hour for the users of the Caucasus Online and Silknet. Later, in June 2016, same videos reappeared on Vimeo and as a result the entire platform became inaccessible for several hours. The representatives of Vimeo confirmed that Georgian Prosecutor's Officer demanded removal of the videos and access to the platform was restored only afterwards. In addition, in 2015, supposedly as a result of request of the Georgian authorities, Wordpress platform was also blocked which led to temporary suspension of numerous websites built on this platform. The reason for blocking Wordpress supposedly was a video released by the Islamic State which was uploaded one of the websites supported by the Wordpress.<sup>16</sup>

With respect to other types of violations, of note is the case of YouTube hip-hop project, Birja Mafia case. On 9 June 2017, law-enforcers detained Birja Mafia members on the charges of illegal acquisition/possession of drugs. However, indicted singers and their supporters claimed that charges were trumped up and drugs were "planted" on them because of YouTube video where they mocked the police and portrayed a policeman as a dog. After massive rally in Tbilisi, to protest this incidents, both detainees were released on bail on 12 June 2017. The abovementioned video was for some time removed from YouTube's video platforms and in June 2017 reappeared but this time with blurry faces of the policemen.<sup>17</sup> The subsequent events unfolding in the aftermath of this case, reinforced the idea that members of the hip-hop group were arrested precisely for a specific video.<sup>18</sup>

Over the course of the last several years, a number of cyber-attacks were carried out across Georgia's internet domain against different websites. Among other things, in August 2019 cyber-attack

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<sup>14</sup> Institute for Development of Freedom of Information (IDFI). (2022). *Internet Freedom and Digital Rights in Georgia: Systemic Challenges*. Accessible at: <https://bit.ly/3WNDmwh> (09.11.2022).

<sup>15</sup> Freedom House. (2017). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3UljkaN> (09.11.2022).

<sup>16</sup> Kokoshvili, D. (25 November 2015). *Access to Wordpress webpages has been restored*. Netgazeti. Accessible at: <https://bit.ly/3EgMJNL> (09.11.2022).

<sup>17</sup> Freedom House. (2017). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3UljkaN> (09.11.2022).

<sup>18</sup> Tabula. *Case of Birja Mafia*. Accessible at: <https://bit.ly/3UFQodr> (09.11.2022).

was carried out against TV Pirveli. As a result, the TV company lost access to its main server and had to temporarily suspend broadcasting. In 2018, cyber-attack was launched at one of Georgia's leading financial institutions – TBC Bank. Although the Bank informed the Ministry of Internal Affairs about the incident and provided geographic location of a place from where the attack was launched, investigation failed to produce a tangible result. In March 2020, personal data of millions of Georgian nationals, including national ID numbers, dates of births, telephone numbers and home addresses were posted at one of the hacker forums. Initially, it was assumed that data was stolen from the Central Election Commission (CEC), but it was reported afterwards that data was retrieved in 2011 and was stored elsewhere before 2020.<sup>19</sup>

One of the most infamous case of the last years was about files allegedly leaked from the State Security Service (SSS). On 13 September 2021, information was posted on the internet and sent to media that SSS carries out illegal wiretapping of politicians, clergy and publicly active people in general, including journalists. The leaked files were mostly in a text format (so called “donosi” (Russian) - denunciations) and exceeded 10 gigabytes in size. Journalists as well as other public figures confirmed that files indeed reflected their private communication, meaning they had been targets of clandestine surveillance.<sup>20</sup>

One of the biggest problems of Georgia's internet, particular of the social networks, is the Russian propaganda, disinformation and pro-Russian so called trolls-bots. This problem has been highlighted in the Freedom House's annual Freedom of the Net reports. The issue of trolls is a controversial topic within the context of Georgia's domestic actors, as pages affiliated with the ruling party are mostly suspected for being involved in inauthentic behavior and smear campaigns against the opponents. For instance, in December 2019, Facebook published a report to say that 39 profiles, 344 pages, 13 pages and 22 Instagram accounts were removed from the platform on the ground of their involvement in “coordinated inauthentic behavior”. Major target of the campaign carried out by the removed accounts was Georgia's domestic audience. These malicious actors posed as news agencies and imitated political parties, public figures and media outlets. Administrators of pages and owners of accounts mostly published information about local news and political topics, such as elections, government policy, high-ranking public officials as well as criticism of the opposition and local activist groups. Removed pages, groups and accounts acted in coordination and were affiliated with the Government of Georgia.<sup>21</sup> In April 2020, Facebook removed

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<sup>19</sup> Freedom House. (2020). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3EgXWOn> (09.11.2022).

<sup>20</sup> Tsuladze, T. (15 September 2021). *Total leak of the SSS's total, illegal wiretapping*. *Voice of America*. Accessible at: <https://bit.ly/3NQd4Wa> (09.11.2022).

<sup>21</sup> Kutidze, D., Gurgenshvili, I. (2020). *“Limiting Freedom of Expression in the Name of Fighting Hate Speech?!”* Research Institute Gnomon Wise. Accessible at: <https://bit.ly/3zZZA4m> (09.11.2022).

hundreds of Facebook and Instagram accounts, groups and pages which were seemingly affiliated with the ruling Georgian Dream party and the opposition United National Movement. These pages were removed on the ground of “coordinated inauthentic behavior”.<sup>22</sup> The same happened in October 2020.<sup>23</sup>

Finally, of necessary mention is 5-6 July 2021 events when over 50 journalists, including journalists of online outlets were physically assaulted. There were facts of attacking journalists during 2021 municipal elections too.<sup>24</sup>

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Analysis of multiple sources, as well as overview of the Freedom House’s Freedom on the Net index proves that internet in Georgia is largely free. However, there are a number of levers to change this very important achievement in the opposite order. First of all, this concerns vague legislative regulations and government’s recurrent attempts to expand its control over the field. Given the fact that democratic advancement has been virtually stalled in Georgia and perhaps remains on the path of regress (Freedom House’s reports also speak about this<sup>25</sup>) as well as media freedom is decreasing every year,<sup>26</sup> it is hard to cling to positive expectations that internet freedom will be respected. As abovementioned Facebook reports indicate, government and government-affiliated actors seek to manipulate public opinion through the so called trolls and bots. It is safe to argue that these attempts have been rather successful thus far. Under these circumstances, the authorities do not need full control and blatant interference in the information domain. It is understood that in the modern world, except for some extremist cases, non-democratic regimes do not actually aspire to fully subjugate mass communication entities. This can be referred as “effective control of the media” where it is sufficient to control main sources (and we see this approach in action when it comes to mainstream media), promote your own agenda and simultaneously discredit the alternatives. This approach still ensures that pro-government narrative always dominate media environment as opposed to alternative viewpoints.<sup>27</sup> However, as mentioned earlier, a moment may come when something more than current level of control will become necessary. This “something more” will supposedly be curbing internet freedom.

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<sup>22</sup> Freedom House. (2020). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3EgXWOn> (09.11.2022).

<sup>23</sup> Freedom House. (2021). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3ThEfu5> (09.11.2022).

<sup>24</sup> Freedom House. (2022). *Freedom on the Net – Georgia*. Accessible at: <https://bit.ly/3G58Acr> (09.11.2022).

<sup>25</sup> Ibid.

<sup>26</sup> Kutidze, D. (2022). *The State of Georgian Media in the Last Decade – Progress, Stagnation and Regress*. Research Institute Gnomon Wise. Accessible at: <https://bit.ly/3tAVOex> (09.11.2022).

<sup>27</sup> Walker, C and Orttung R, W. (2014). *Breaking the News: The Role of StateRun Media*. Journal of Democracy. Accessible at: <https://bit.ly/2XUstyM> (09.11.2022).