

**President of Georgia,
Giorgi Margvelashvili,**

Administration of the President of Georgia,
1 M. Abdushelishvili Street,
Tbilisi 0103, Georgia

Brussels, 3 June 2014

Your Excellency,

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE) which represents the bars and law societies of 32 member countries and 13 further associate and observer countries, and through them more than 1 million European lawyers.

Since its establishment in 1960, the CCBE has been in the forefront of advancing the views of European lawyers, protecting the rights of citizens and defending the legal principles upon which democracy and the rule of law are based.

The Georgian Bar Association, which is an observer member of the CCBE, continues to draw our attention to cases of violation of rights of lawyers in Georgia.

1. Lawyer Irakli Zaqareishvili

The CCBE was informed that on 17 April 2014, lawyer Irakli Zaqareishvili was attacked by a citizen, who insulted him verbally and spat several times in his face. This incident took place at the building of Tbilisi City Court and was witnessed by a group of people and recorded by journalists. Later the same day, the attacker verbally insulted the lawyer at a press-conference in the studio of "Prime Time". He also said that the lawyer deserved to be spat upon and threatened to finish initiated actions against the lawyer with physical retribution due to the fact that Irakli Zaqareishvili defended a particular person.

On 28 May 2014, lawyers Irakli Zaqareishvili and Romeo Sajaia defended their client in a court session. Before the judge entered the courtroom, the same person persisted in assaulting them verbally and spat again in the face of Irakli Zaqareishvili.

In this respect, the CCBE would like to stress that states have a positive obligation to guarantee the functioning of lawyers, including by safeguarding their security.

Particularly, the [United Nations Basic Principles on the Role of Lawyers \(1990\)](#) (hereafter, The UN Basic Principles), Point 16 states:

16. Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (...)

Furthermore, Point 17 states:

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

The obligation to respect lawyers' rights is also enshrined in [Recommendation N° R\(2000\)21 of the Committee of Ministers to members States on the freedom of exercise of the profession of lawyer \(adopted on 25 October 2000\)](#) (hereafter, The Recommendation of the Council of Ministers). Particularly, Principle 1 (4) states:

4. Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.

The CCBE would also like to highlight that according to The UN Basic Principles, Point 18,

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

2. Lawyer Giorgi Oniani

We were also informed that lawyer Giorgi Oniani, whom we mentioned in our previous letter to you, continues to experience improper interference in his professional activity. Particularly, on 14 March 2014, investigators did not observe the confidentiality between the lawyer and his client, by running into a temporary detention room where the latter were having a private conversation, and drove the lawyer out of the room. We were also informed that criminal charges were brought against Giorgi Oniani, who was subject to personal search and home search in this respect, and his phone conversation with the chairman of the Georgian Bar Association was wiretapped.

In this respect, we would like to express our concerns that the right of access to a lawyer and legal professional secrecy, which is a lawyer's duty, are not observed in Georgia.

We underline the constituent role that access to a lawyer has in a democratic society in safeguarding the fundamental human right to a fair trial, enshrined in the [European Convention on Human Rights](#) (Art.6). It is, therefore, important to ensure that all detained persons are provided with sufficient and adequate time to consult with their lawyers.

We would also like to stress that states have a positive obligation to guarantee access to lawyers to all persons.

Particularly, The UN Basic Principles, Point 8 states:

All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

Regarding professional secrecy, we would like to refer to The UN Basic Principles, Point 22 that sets a state's duty to respect legal professional confidentiality; particularly, it says:

22. Governments shall recognize and respect that all communications and consultations

between lawyers and their clients within their professional relationship are confidential.

The state duties to provide access to a lawyer and to respect professional secrecy are reiterated in The Recommendations of the Council of Ministers, Principle 1 (5) and (6):

5. Lawyers should have access to their clients, including in particular to persons deprived of their liberty, to enable them to counsel in private and to represent their clients according to established professional standards.

6. All necessary measures should be taken to ensure the respect of the confidentiality of the lawyer-client relationship. Exceptions to this principle should be allowed only if compatible with the Rule of Law.

We would also like to stress that any personal search of a lawyer and search of a lawyer's house should be conducted with great care in order to avoid any breach of lawyer-client confidentiality. Further, we have concerns that surveillance of a lawyer's phone line endangers confidentiality, as it raises the probability of violation of lawyer-client confidentiality and could result in recording client-related information. According to our survey, the majority of European countries consider in their legislation that professional secrecy covers all information received in the course of the exercise of the profession of a lawyer, with no distinction made between written and oral information. In the vast majority of countries, professional secrecy also covers all information received from a colleague.

3. Lawyer Elene Lazariashvili

The CCBE also received information that in May 2014, lawyer Elene Lazariashvili was hindered from exercising her professional duty and providing effective legal assistance. Particularly, she was not given access to the information at the detention center N 2 of the Chief Directorate of Human Rights and monitoring of the Ministry of Internal Affairs and which is related to the case of her client Giorgi Oniani, despite the court decision that has granted permission to examine relevant documentation there.

In this respect, we would like to refer to Point 21 of the UN Basic Principles that states:

21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

The state's duty to provide access to information is reiterated in Principle 1, Point 7 of the Recommendation of the Council of Ministers:

7. Lawyers should not be refused access to a court before which they are qualified to appear and should have access to all relevant files when defending the rights and interests of their clients in accordance with their professional standards.

We understand that all three lawyers mentioned above represent interests of their clients who are former government officials. We have concerns that the intimidation, harassment and improper

interference in their professional activities, which these lawyers encountered, are related to their clients' cases.

In this respect, we would like to underline that the states have positive obligations regarding functioning of the lawyers, which are set in the The Recommendations of the Council of Ministers, Principle 1 (1):

1. All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.

Further, The UN Basic Principles reinforce the role of governments in ensuring the role of lawyers. In particular, it states in the preamble:

... The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general.

In view of the above, the CCBE urges you to investigate the abovementioned facts of: intimidation and threats against lawyer Irakli Zaqareishvili; improper interference in the professional activities of lawyer Giorgi Oniani; and not providing access to information to lawyer Elene Lazariashvili; and to bring those responsible for the mistreatments to justice.

The CCBE also asks you to take all necessary measures in order to prevent violence against lawyers in the future, and in order to ensure that Georgian lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference. All actions and threats against lawyers in the legitimate exercise of their professional duties should be immediately and effectively stopped.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aldo Bulgarelli', with a long vertical line extending downwards from the end of the signature.

Aldo Bulgarelli
CCBE President