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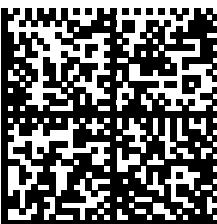
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Reporting on investigative files restricted, independent journalism under attack / BIRN: Draft amendments to Criminal Procedure Code impose 'prior censorship'...



The draft law proposed by the government for amendments to the Criminal Procedure Code drastically restricts media reporting on investigative files, risking, according to experts, the establishment of a prior censorship regime in violation of the Constitution, striking at independent journalism and the public's right to be informed.

After every sensational investigation by the Special Prosecution featuring senior officials of his government, Prime Minister Edi Rama has always found a way to accuse the media.

In February of this year, Rama came to the defense of the indicted former director of the National Agency for the Information Society, Mirlinda Karçanaj, describing media reporting on her criminal case as a "massacre with artisanal bombs, pot after pot."

In early March, the scene repeated itself even more aggressively when the prime minister announced before the parliamentary group the majority's decision against lifting the immunity of former deputy prime minister and former minister of Infrastructure and Energy, Belinda Balluku.

Faced with data from the investigative file published by the media on how tenders worth hundreds of millions of euros were dictated, Rama accused journalists of being used by the prosecution "as paramilitary forces for the incrimination and public annihilation of their subjects."

The prime minister reduced the exposure of suspected corruption affairs to a noise that "boils ceaselessly in the 700 pots of our media and political bazaar" and to "perverse fantasies of social networks."

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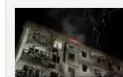
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At the end of September, the prime minister again criticized the leak to the media of fragments from the investigative file against the head of the secret service, Vlora Hyseni, who is accused of disclosing state secrets and supporting the perpetrator of a crime in favor of Ergys Agasi.

"It took the data from the investigative file to flood through social channels and media stalls before the court, like the basket after the harvest, ordered the restriction of their publication," he said in a recorded message from "Mother Teresa" airport.

But now, the prime minister's rhetoric against the publication of data from investigative files has been translated into a legal initiative as part of the proposed amendments to the Criminal Procedure Code.

Article 103 of the draft law provides for the prohibition of publishing court decisions on security measures as well as the prohibition of transmitting images of persons deprived of liberty while they are subject to physical restraint measures, without their express consent.

The same article also stipulates that the publication of phone interceptions is always prohibited, even partially, "with the exception of the portion of the transcript that is cited in the reasoning of a decision or that is used during the trial."

The prohibition on reporting on acts of preliminary investigations is significantly expanded "up to one year after the decision to dismiss" or "until the beginning of the first hearing of the merits review."

The accompanying report even states that "making public the very fact that a person is under investigation is also prohibited."

In addition to these provisions, point 14 of the article establishes prior control over newsrooms, stipulating that for journalists and media that already possess materials referred to in this article, publication may only occur with the court's permission.

"In any case, publication may not be carried out without judicial authorization," the draft states.

These provisions are met with concern by freedom of expression experts, who told BIRN that if approved, the draft risks creating prior censorship in violation of Article 22 of the country's Constitution, creating additional barriers for investigative journalism, and exposing journalists to lawsuits, even in cases where they refer to prosecution or court documents.

"Ultimately, it is a draft that promotes censorship and that particularly strikes at investigative journalism," Koloreto Cukali, head of the Albanian Media Council, told BIRN.

The judge, a preliminary editor of the news

Current legislation protects preliminary investigations and balances the right to information with the protection of investigative secrecy. The Law "On the Right to Information" imposes restrictions on access to documents considered investigative secrets related to the preliminary phase of investigations.

Blerjana Bino, head of the Center for Science and Innovation for Development, SCiDEV, acknowledges that protecting investigative secrecy and the presumption of innocence are legitimate state interests.

However, Bino notes that the draft law crosses into an unconstitutional regime.

According to her, the main problem "is the shift from protecting secrecy within the justice system to prior control over what the media may publish," a shift that requires serious constitutional review and in relation to Article 10 of the European Convention on Human Rights.

Bino emphasizes that point 14 of Article 103 turns the judge into a preliminary editor of the news.

"Here we do not simply have liability after publication; according to the draft, the judge's permission becomes a condition for publishing. In practice, this can delay investigations, cause the news to lose its timeliness, and produce self-censorship in newsrooms. The Constitution expressly guarantees freedom of the press and prohibits prior censorship," Bino told BIRN.

On the same line, Koloreto Cukali considers the requirement for judicial authorization, even when the documents do not constitute investigative secrecy, as a direct violation of Article 22, paragraph 3 of the Constitution, which prohibits prior censorship.

According to him, this procedure brings essential delays and serves as a tool "to prevent newsrooms from publishing information that is essential for the accountability of power," turning into "a barrier for investigative journalism."

The clash with constitutional pillars through which freedom of expression and media freedom are protected is also noted by jurists. Former Constitutional Court judge Përparim Kalo told BIRN that this concern about the draft law amending the Criminal Procedure Code stands.

"Although the provision is limited only to materials obtained within the investigative process, it can be said that it interferes to a certain extent in the realm of constitutional rights," Kalo said.

Meanwhile, the draft also prohibits the distribution of materials or "acts of preliminary investigations that are no longer protected by investigative secrecy." Article 308/a prohibits the proceeding body from publishing that a person is under investigation, without distinguishing between a citizen and a senior public official. The draft also bypasses the Commissioner for the Right to Information.

Cukali warns that blocking decisions and data until the matter goes to court or the case is dismissed creates a dangerous information blackout on abuses of power and completely undermines transparency.

"This is a long period of silence, a blackout," Cukali says, adding that this situation deprives citizens of the opportunity to observe public interventions, "creates space for pressure" on the justice system, and removes the media's ability to exert pressure for public accountability.

"Where does transparency remain here then?" he asks, emphasizing that for political figures and leaders, the moment they appear before the prosecution or SPAK "is vital information for the public."

According to him, the reporting ban creates a shield where news emerges only when investigative institutions want it to, killing independent journalism.

Bino also expresses concern about the long-term blocking of information from investigations, which according to her strikes at the core of public oversight.

"Extending the prohibition even after investigative secrecy falls seriously affects the media's watchdog function, especially in corruption cases and in files that are dismissed and never reach a public trial," she assesses.

The license trap and opening the doors to SLAPP lawsuits

While the articles above provide for prohibitions, Article 104 reformulates who bears responsibility for publishing a secret by making the journalist co-responsible with the officials who administer the process and opening the doors for them to be sued for causing damage, even when they simply referred to court and prosecution documents.

The draft has provided for "civil liability for compensation of the damage caused," "criminal liability of the person when the violation also constitutes a criminal offense," and qualifies the action as "a disciplinary violation" when committed by a public official or "persons exercising a profession for which a license is required."

The accompanying report of the draft law expressly clarifies that this provision extends liability beyond public officials.

"Recognizing that the violation may come equally from a journalist, lawyer, or other regulated professional," the report states.

In point 2 of this article, the prosecutor's monopoly on action in cases of breach of secrecy is removed and it stipulates that besides the prosecutor, "the accused, the victim, the complainant, or any party in the proceedings whose rights have been affected by the violation (publication) may notify the body exercising disciplinary proceedings, file a lawsuit for compensation of damages, or submit a criminal complaint when the act constitutes a criminal offense."

For Blerjana Bino, this formulation in the report brings back attempts at state control over the profession, following the January 2026 debate on the Criminal Code, when the notion of the "registered/recognized" journalist was introduced.

"This is problematic because journalism in Albania is not currently a licensed profession within the meaning of the law on regulated professions," Bino says, raising the questions of who will grant or revoke the license and what will happen to independent and investigative journalists.

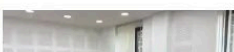
She recalls that European standards link the protection of Article 10 to the function of journalism and not to "the possession of a license or status granted by the state," warning that such an approach creates legal uncertainty and "an indirect risk for the regulation of the journalist profession by the state."

On the other hand, Koloreto Cukali warns that arming persons under investigation with the right to sue journalists opens the doors to strategic lawsuits against public participation, known as SLAPP. In this case, creating lawsuits against them even for referring to or partially publishing materials or the content of materials produced by the court and prosecution.

"Businessmen and officials can use lawsuits to intimidate newsrooms, threatening them with substantial legal costs, not to mention stress in life and at work, even when journalists are right," Cukali concluded./BIRN

Shtuar më 5.10.2026 09:42

Tags: albania , BIRN , censorship , Criminal code , Independent journalism , Investigative files , news , Top Stories , Under attack





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