



MONITORING THE PROTEST DEMONSTRATIONS

SUMMARY REPORT (APRIL- JUNE 2022)



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GENERAL OVERVIEW

The purpose of this report is to analyze the problematic trends, and violations identified during the protests in Georgia from April 1 to June 30, 2022, and to assess the compliance of the actions of law enforcement officials with international standards.

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The document reviews the results of the observation of social, political, and other important protests organized by civil movements, political parties, and other groups, representatives of the media, and civil activists in Tbilisi and the regions.

The monitoring by HRC revealed that in 2022, during the monitoring period, the right to peaceful assembly was violated in various forms at most of the protests held in the country.

As the result of the monitoring carried out in the recent years to see the practice of exercising the right to assembly and manifestation, following problematic issues were identified: improper and inefficient management of the assemblies, the legislative gap related to the impossibility to block the roads in spontaneous protests that has regular nature in Georgia and the cases of fining and arresting the protest organizers and protesters through excessive use of force.

Georgian law enforcement officers continue to actively use the mechanisms provided by the Code of Administrative Offenses against protesters, in violation of the right to assemblies and manifestations, mainly in order to discredit and intimidate them and inflict harm on the protest actions.

The court hearings on the cases of administrative offenses monitored by HRC reveal that the participants of peaceful assemblies were mainly arrested under Article 166 (petty hooliganism), Article 173 (disobedience to a lawful order of a police officer), and Article 150 (defacement of the image of the self-governing unit) of the Code of Administrative Offenses. In recent years, human rights organizations including HRC managed to document the cases of restricting the right to assembly and freedom of expression through the mentioned articles of the Code.¹

METHODOLOGY

The protests were monitored by three HRC monitors employing the methodology developed with the participation of experts from the OSCE Office for Democratic Institutions and Human Rights (OSCE / ODIHR).² The monitors were incorporating the obtained information in notes after observing each of the rallies, and afterward a legal analyst summarized the information and reflected them in the reports or analytical documents.

¹ Monitoring the Protest Demonstrations - Intermediate Report, Human Rights Center, 2021. <http://hrc.ge/files/reports/161aqciebi-geo.pdf>; Results of Monitoring the Protest Demonstrations – summary Report, Human Rights Center, 2020: <http://hrc.ge/files/reports/36aqciebis%20monitoringi%20-geo.pdf>

² Information on OSCE/ODIHR training: <https://bit.ly/2Omse8R>

The main sources for preparing the present report were the reports prepared by the monitors during the protests and trials, as well as the photos and videos taken during the protests by the project's public relations manager, civil activists, and media outlets.

The HRC monitors observed the protests directly at the sites of events, as well as remotely through following live streaming by various online platforms. The monitors obtained the information about the time and venue of the protests to be observed from various sources, including the social network Facebook, where the organizers disseminated the information about the protests to be held.

The present report assesses the extent to which the procedures related to the right to freedom of assembly and expression are in line with the recognized practices and international obligations.

MONITORING OF THE PROTESTS HELD DURING APRIL - JUNE OF 2022

Having observed 7 protests held during the reporting period, we may say that the majority of them were peaceful on the part of the protesters. In exceptional cases, the actions of protesters did not reach the threshold where the risk of wrongdoing would be imminent. In some cases, there was a tendency when the resistance from the protester was provoked as a result of the repressive approach by the police force. In such cases, by a general assessment, the behavior of the protesters was of a nature and quality proving their participation in the protest to be legitimate both under the national law and also in terms of respecting the right to freedom of peaceful assembly under Article 11 of the ECHR.

- 1. *On April 11, 2022***, at 7:00 pm, some protesters gathered at the entrance of Tbilisi City Council (Sakrebulo) to demand the resignation of the Government. The protest was organized by civil activist Nata Peradze. The protesters gathered at the Freedom Square around the statue of St. George holding banners and Ukrainian flags. The protest was of small scale and peaceful. Protesters carried banners with slogans and shouted the following words: "You shall resign because of friendship with Russia", "You shall leave", and "Resign now, traitor!". No incidents of obstruction, arrests, and fines were reported against the protesters.
- 2. *On May 5, 2022***, at 7 pm, organizers and participants of the protest action gathered in front of the Government Administration premises in Tbilisi, demanding that proper medical treatment be available to the detained Mikheil Saakashvili and to transfer him abroad for the treatment. Approximately 500 to 700 citizens took part in the protest. The staff of the Ministry of Interior, Patrol Police Department, Criminal Police Department, and Special State Protection Service were deployed at the site. There were about 30–to 40–patrol police vehicles on the ground, up to 5 vans for detention, and some security service cars with tinted windows.

At 19:10, the organizers of the protest action addressed the participants. Some celebrities took the stage too. Various appeals were made at the rally, including the ones demanding the release of the Ex-President from custody, exoneration from all charges and removal of all punishments. The protest was peaceful: no protester proved to exceed the limits of legal requirements established for a peaceful protest. The protest action ended at about 8:40 pm. Before leaving, the organizers announced the upcoming protest actions to be held in other cities in Georgia.

However, 2 incidents took place at this protest. A person appearing at the scene of the protest action addressed the participants with insulting words followed by some clashes. The law enforcement authorities reacted promptly to the incident removing the person from the scene. The second incident involved a verbal altercation taking place near the protest action between an individual (presumably one of the protesters) coming from the next street and a law enforcement officer which resulted in the detention of the former.

As for the removal of the person who has created trouble at the protest action, it should be noted that protecting law and order is one of the main functions of the state. This must include the obligation of creating the guarantees for the protection of citizens. Under the Law of Georgia on Police, in order to ensure public safety, law and order, a police officer shall carry out preventive measures; A prerequisite for the application of the law enforcement measure is the assessment of the danger³. The concept of danger determines the preventive activities of the police. Furthermore, the concept of danger shall define the beginning and the end of the preventive measures and in this line, shall protect the rights and freedoms of citizens against unjustified interference by the State. The concept of existing danger allows for the compliance of police activities with the principle of rule of law⁴. In this regard, Article 25 of the Law of Georgia on Police concerning the instruction by the police ordering an individual to leave a particular location and restricting the individual from entering the location, is noteworthy. Under Article 25, A police officer shall have the right to demand from a person to vacate a location for a specific period or to prohibit a person to enter a certain territory, if this is necessary to prevent danger.

The timespan of the restriction referred to in Article 25 may be extended until the danger is eliminated. Moreover, the implementation of the measures provided for in the above Article shall not cause a long-term restriction of the right of a person to enjoy his or her place of residence⁵.

The definition of danger has been established in German law following some court judgments, according to which it is a situation where there is a relevant probability that the legal good

³ The Law of Georgia on Police, Article 3. <https://bit.ly/3xAjsu5>

⁴ Beraia I., Gelashvili N., Giorgishvili K., Izoria L., Kiladze S., Muzashvili D., Turava P., Police Law, Publishing House, MIA Academy, Tbilisi, 2015, p. 113.

⁵ The Law of Georgia on Police, Article 25 <https://bit.ly/3xAjsu5>

protected by law may be damaged⁶. The concept of danger is not defined in Georgian judicial practice. However, the definition of the term is provided in the Law of Georgia on Police, according to which danger is a situation where there are sufficient grounds to believe that in the case of expected and unhindered development of the events in question there is a high probability that the good to be protected by the police would be damaged⁷.

Moreover, it must be of interest to discuss Article 22 of the Code of Administrative Offenses of Georgia, which is the only instance when in cases defined by law, it is allowed for the police to issue a verbal reprimand when reacting to an offense⁸. This refers to the possibility of releasing the offender from administrative liability in the event of a minor administrative offense. If a minor administrative offense has been committed, the official of the authority competent to resolve the case may release the offender from administrative liability and issue only a verbal reprimand against him/her. A verbal reprimand may not be issued where the same act has been committed repeatedly or if a verbal reprimand has been already issued against the offender for the same action under this article. In practice, the verbal reprimand is usually followed by the removal or detention of a person in question, after the risks and dangers are assessed by the police. However, following tendency must be noted here - in case of pro-opposition citizens, like in previous years, law enforcement authorities do not use the procedure of removal as a rule, but detain them immediately instead⁹. Because the concept of danger is an indefinite legal term, the authorities often abuse this authority and pursue repressive policies towards peaceful protesters, while resorting to tolerant policies towards the organizers and participants of violent protests.

3. **On May 6, 2022**, a protest action was held in Batumi to support the Ex-President Mikheil Saakashvili. At about 8:00 pm, the protesters led by organizer Giorgi Kirtadze began to march, starting on Rustaveli Street. Protesters were walking on both sides of the road. Following the instructions by the police, the protesters moved to a single side of the road, allowing the traffic to be restored in one way.

In the end, as this was planned, the protesters gathered in front of the Government House of Adjara. Some figures addressed the public speaking from the stage installed on Abashidze Street. Among them were: Giorgi Saakashvili, brother of Mikheil Saakashvili, Giorgi Kirtadze, the chairperson of the UNM Batumi organization and organizer of the protest action, Gigi Ugulava, one of the leaders of UNM, some other members of the Adjara Supreme Council and City Council from UNM.

Soon afterwards, the protesters began to erect protest tents without any resistance from the police at first. From about 2:00 am till 4:00 am, the police set about to forcibly dismantle the tents and detain the protest participants. They called on the protesters

⁶ Judgment of the German Federal Supreme Court from February 26, 1974, paras.45 - 51.

⁷ The Law of Georgia on Police, Article 2(c).

⁸ The Law of Georgia on Police, Article 22 <https://bit.ly/3xAjsu5>

⁹ Right to a Fair Trial in the Cases of Administrative Offenses: Problem Analysis, Human Rights Center, 2021. <https://bit.ly/3ttq2jT>

to keep themselves within the boundaries of the sidewalk. The authorities contacted the relevant city services to clean the road which was executed the same morning. About 800 people took part in the protest. The protest action was attended by people of almost all age groups, including children, especially at the initial stage.

At the moment when the police were dismantling the protest tents and arresting the protesters, the number of law enforcement officers significantly exceeded the number of the protesters. This is also evident from the disseminated video footage¹⁰. The police detained 25 people at the protest action, including two women. The protesters were detained jointly by several police officers by using force. Furthermore, the police never explained the reasons and normative grounds for the detention just noting that official public statements would follow later. Some of the protesters were arrested, for example, for talking loudly and screaming. It was not until later that it became known where the detainees were taken. The families were not informed about their whereabouts. As it turned out, the detainees were placed in a pre-trial detention facility. The representatives of both the patrol and criminal police departments were deployed at the protest site. According to the statement released by the Ministry of Interior on May 7, the protesters were detained under Articles 173 and 166 of the Code of Administrative Offenses¹¹. According to the reports¹², policemen from both the patrol and criminal police departments of Adjara and Guria divisions were deployed at the protest scene.

A) Behavior of protesters and actions of law enforcement officers at the protests

According to OSCE/ODIHR guidelines, the erection of protest tents and other non-permanent constructions falls within the scope protected by the right to peaceful assembly¹³. The act banning the erection of protest tents and other structures in "the controlled areas" was deemed in one of the judgments delivered by the European Court of Human Rights (ECtHR) against the United Kingdom to be contrary to the right to peaceful assembly protected under Article 11 of the European Court of Human Rights (ECHR). The ECtHR ruling was substantiated by the notion that the erection of the protest camp acquired an inseparable symbolic meaning from the message of the protest¹⁴. Further, on the national level, the judgment by Tbilisi City Court from August 31, 2016, held that the erection of the protest tent without prior consent falls within the right to peaceful assembly. The court interpreted that "the right to assembly and manifestation includes the right to choose the place, time, manner, and content of the

¹⁰ More information: <https://bit.ly/3Mj3SHn>

¹¹ Statement of the Ministry of Internal Affairs [07-05-2022]. <https://bit.ly/3ahHl0u>

¹² More information: <https://bit.ly/3zeyLtK>

¹³ See Guidelines on Freedom of Peaceful Assembly, second edition, §18, Warsaw/Strasbourg 2010. The Document is available: <https://bit.ly/3bpJ1C4>

¹⁴ See *Tabernacle v Secretary of State for Defence* [2009] EWCA Civ 23 (05 February 2009). <https://bit.ly/3bjcv4g>. Further see the European Commission for Democracy through law (Venice Commission) and OSCE office for Democratic Institutions and Human Rights (OSCE/ODIHR) guidelines on freedom of peaceful assembly (3rd Edition), Strasbourg/Warsaw, 8 July 2019, para 148. The Document is available at: <https://bit.ly/3hfX9R2>

assembly, which implies the possibility of erecting non-permanent constructions."¹⁵

Therefore, the reasoning presented by the Ministry of Interior to justify the actions of the law enforcement officers on 6 May 2022 did not meet the basic requirements for interference with the right as provided for by the Constitution of Georgia and human rights standards.¹⁶ Moreover, the organizers/participants of the protest action were detained illegally, with grave violations and abuse of power, just because they were exercising their right to peaceful assembly.

B) The need and the proportional number of law enforcement officers

According to international standards, the police are obliged to facilitate the assembly following the notification submitted to the authorities about the protest or with the terms agreed with the organizers. The law enforcement agencies should always try to deploy as few police staff as possible on the ground to facilitate the peaceful conduct of the event. Further, tactical commanders must constantly make adjustments to the police operation during the assembly. During the event, the practical actions of the police must be informed by a certain decision-making model¹⁷.

On the national level, under Article 21 of the Constitution of Georgia, the State has both negative and positive obligations, in order to ensure that the assemblies and manifestations proceed smoothly, without excesses, which was not observed at the May 6 protest.

C) Practice of detaining/fining assembly participants

The law enforcement agencies actively used the mechanisms provided by the Code of Administrative Offenses against protesters in violation of the right to assembly and manifestation. As we have identified, the practice of non-compliance with human rights standards is maintained, according to which family members and defense counsels of detainees are not informed about the whereabouts of detainees for a long period of time. Consequently, the defense counsels are deprived of the opportunity to visit their clients in a timely manner, interview them, and agree on a defense strategy. In general, even when the defense counsels are aware of where their clients are kept in custody, they have to spend hours overcoming the obstacles to see the clients. Moreover, a major problem that needs special attention is the growing tendency of restricting the rights of peaceful protesters under the above norms even in cases when the assembly is conducted within the boundaries of the law.

In sum, during the protests, the administrative detentions and administrative fines applied against the protesters were substantially unreasoned and were aimed not at ensuring public

¹⁵ See Judgment of the Administrative Cases Panel of Tbilisi City Court of 31 August 2016 in case №3/6463-16.

¹⁶ Article 25 of the Law of Georgia on Police: <https://bit.ly/361aTdy>

¹⁷ Human Rights Handbook on Policing Assemblies, p. 92. <https://bit.ly/37KoXsa>; See also: Makaratzis v. Greece, Application No. 50385/99, 2004. <https://bit.ly/33TsF1B>

order and peace, but at making the protest lose steam.

On May 18, 2022, shortly after Tbilisi City Court announced a verdict against Nika Gvaramia, CEO of Mtavari Arkhi TV Company, sentencing him to three years and six months in prison, some media professionals organized a **march for solidarity** involving up to 1,000 people, including journalists. The protesters gathered at the Square of the First Republic, then marched to the Parliament, and later moved near to the premises of Mtavari Arkhi TV. There were people of different age groups at the protest, including children. The march was attended by writers, poets, journalists, politicians, representatives of non-governmental organizations, civil activists, and so on. The protest was peaceful and no violation was observed.

On May 17, 2022, there was a demonstration in celebration of the Day of Family Purity. The action was planned on social networks, by different groups, including the Facebook group National Front Line. The participants first gathered at the Republic Square at 10:00 am and began marching in the direction of Rustaveli Avenue. The protesters carried banners reading as follows: "May 17 is the day of protection of family purity", "Protect the purity of the family", and "Do not turn Georgia into Sodom and Gomorrah".

The demonstration was attended by approximately 4,000 people, including people who often make homophobic statements. However, no such statements and calls were made during this demonstration. The demonstration was controlled by about 100 officers of the patrol police. Initially, the protesters were walking on a pedestrian path, but the number of participants near the Kashueti church increased and they moved to the main road.

The patrol police managed the traffic restrictions on the mentioned road in an organized manner and consequently, no incidents took place. The organizers of the demonstration had loudspeakers, voicing Georgian chants, folk songs, as well as the address of the Patriarch of Georgia to the people on the occasion of Family Purity Day. At about 2:00 pm, the participants of the demonstration gathered at Kashueti Church and continued marching to the Sioni Cathedral. So, the patrol police gradually began to restore the traffic on the road.

The demonstration was peaceful and during the observation of the demonstration, no facts of violation on the part of the protesters were identified. There was no counter-demonstration. Also, there were no clashes between the participants or between the police and the participants. The number and actions of the police were in line with the need to maintain the security of the demonstrators.

May 17 marks the International Day Against Homophobia and Transphobia¹⁸. This day is built on the

¹⁸ 17 May - International Day against Homophobia: <https://bit.ly/3NAnokn>

idea of the broader concept of human rights and freedoms and calls for the recognition of the structural oppression and social exclusion of LGBTQ people from all areas of life. In Georgia, May 17 is considered a day of fight for freedom of assembly and expression for the groups oppressed because of their gender and sexuality. At the same time, the LGBTQ community and activists are deprived of the right to celebrate IDAHO day. In 2014, based on the homophobic attitudes, the Patriarchate of Georgia declared May 17 as the day of respect for family purity and parents¹⁹. Every year on this day, Orthodox clergymen organize a procession on Rustaveli Avenue, where representatives of homophobic groups usually join the demonstration. Consequently, to avoid confrontation and violence with them, LGBTQ activists and their supporters can no longer gather on Rustaveli Avenue to mark International Day Against Homophobia and Transphobia.

On May 18, 2022, at 19:00 am another rally supporting Nika Gvaramia was held in Batumi. The protesters gathered at the colonnades of central park, and then they marched on Memed Abashidze Avenue and approached the Government House of Adjara. The march was attended by representatives of different spheres of society, including journalists, politicians, representatives of non-governmental organizations, up to 200 individuals in total. The protest was peaceful and no violation was observed.

On June 20, 2022, a rally called "March of Europe" was held under the slogan "Home to Europe / Forward Europe²⁰". The demonstration was announced by the civil movement "Shame" in advance on June 8, 2022, the main purpose of which was to gather citizens in front of the Georgian Parliament in anticipation of the EU granting Georgia candidate status and thus demonstrate to the world community the loyalty of the Georgian people to European choice and Western values.

It should be noted that the representatives of the government linked²¹ the action to the United National Movement (UNM) and the opposition from the day it was announced. However, no political party members spoke at the rally. It should be noted that the Prime Minister Irakli Gharibashvili also spoke about the June 20 rally organized by the civil movement "Shame" at the June 13 government session. He said provocations were expected and the government would not allow it within the law. Gharibashvili did not explain²² where he had information about the possible provocation. In addition, it should be noted that the violent, pro-Russian group Alt-Info was announcing a counterdemonstration near the Parliament building on June 20. One of its leaders, Koka Morgoshia, said they would gather at the place where the shameful action "Home to Europe!" was planned. However, at the June 20 rally²³, presumably due to an unprecedented large-scale rally, they did not hold a counterdemonstration. No information has been released about the cancellation of the

¹⁹ More information: <https://bit.ly/3mqjkqP>

²⁰ Full information: <https://bit.ly/3bsG8nK>

²¹ Full information: <https://bit.ly/39MOwOf>

²² Full information: <https://bit.ly/3tViywb>

²³ Full information: <https://bit.ly/3ng984y>

counterdemonstration.

Students, Georgians fighting in Ukraine, Members of the European Parliament (MEPs) and public figures addressed the protesters at the rally. At the same time, the movement "Shame" read a manifesto at the rally and announced the establishment of a new people's movement²⁴. According to the manifesto, the goal of the movement will be to protect Georgia's European choice. Students of state and private universities also joined the action²⁵.

Given the scale of the rally, it is very difficult to accurately and objectively determine the number of citizens present at the rally on June 20. However, it should be noted that the number of participants at the peak of the rally, started from Republic Square and ended at Freedom Square. For example, according to Netgazeti, the number of demonstrators was at least 120,000 and at most 160,000²⁶. It is only possible to determine the approximate scale, for which Netgazeti has used a method that has been used by many international media outlets for many years. This method involves accurately calculating the area in which the specific protesters are located. The obtained area can be multiplied by three, and in case of special density of the event - by four.

Representatives of the MIA Patrol Police Department, Criminal Police and State Protection Service were mobilized at the rally. There were about 4-5 patrol police vehicles, 6 arrest vehicles and also vehicles of the State Security Service with dark tinted windows in the area, as well as several ambulance vehicles.

The action was completely peaceful. No incidents of violence took place. No arrests or detentions were reported either.

CONCLUSIONS

In 2022, having witnessed and observed the protests held during the reporting period, there have been identified instances when the disproportionately excessive police forces were deployed on the sites and the protesters were detained unlawfully. The protesters are still deprived of the opportunity to erect non-permanent constructions (including protest tents), constituting an illegal restriction of freedom of assembly.

Based on the results of the analysis of the violations identified at the protest in Batumi on May 6, 2022, and by taking into consideration the results of the examination of the actions of law enforcement officers in the light of the international standards, it was established that the right to freedom of assembly and demonstration and relevant standards were not protected and the authorities continue to use law enforcement agencies as a tool for political repressions.

²⁴ Full information: <https://bit.ly/39N43hg>

²⁵ Full information: <https://bit.ly/3zVDzom>

²⁶ Full information: <https://bit.ly/3Oq6Wni>

Finally, the authorities use the Code of Administrative Offenses adopted in the Soviet period as another tool of repressive policies, as the protesters do not enjoy the guarantees of a fair trial under this Code.

RECOMMENDATIONS

To the Government of Georgia:

- *To refrain from disproportionate restrictions on the right to peaceful assembly;*
- *To refrain from banning protest tents and other non-permanent structures during peaceful assemblies;*
- *To make explanations in favor of freedom of expression and clearly and unequivocally condemn the violent calls and actions of ultra-right groups.*

To the Parliament of Georgia:

- *To adopt a new Code of Administrative Offenses within a reasonable time, so that human rights and freedoms, public interests, and the rule of law are protected in full.*

To the Judiciary:

- *In hearing the cases, to strengthen the judicial control over the cases of possible human rights violations by law enforcement officers when they detain individuals.*
- *To ensure improvements in the quality of substantiation of the judgments rendered by the judges in the cases of administrative offenses;*
- *To assess the evidence presented at the court hearings and assess the issue of the legality of obtaining the evidence;*
- *To ensure that the courts apply the principle of inquisitorial justice comprehensively when hearing cases.*

To the law enforcement agencies:

- *To respect the constitutional right to peaceful assembly;*
- *The Ministry of Interior must ensure the safety of media representatives during the demonstrations and their free and unhindered activities;*
- *Relevant agencies must investigate the facts of restriction of the right to peaceful assembly and take appropriate legal actions;*
- *The Ministry of Interior must change the unlawful and arbitrary practice of restricting the erection of protest tents / other constructions during peaceful assemblies;*
- *It is necessary to upgrade the qualifications of law enforcement bodies to ensure that the right to assembly and manifestation is realized and the positive obligation of the State is fulfilled.*