



Monitoring of Court Proceedings of Cases with Alleged Political Motives

(Summary Report)

2024

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Political Motives**
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Introduction

The Report below presents the findings from the monitoring of court proceedings of cases with alleged political motives in the period of 1 July 2023 and 25 June 2024.

In the reporting period, HRC monitors attended 93 court hearings of 31 of criminal and administrative cases; they also monitored the Constitutional hearing of the Georgian President's impeachment. Based on the information collected from the trial monitoring, some tendencies were identified, which reinforces questions about alleged political motives in the criminal cases. Also, instances of applying the Code of Administrative Offences for the punishment of participants of protest demonstrations and civil activists as a well-established practice, were also observed.

HRC has been monitoring the judicial proceedings on cases with alleged political motives since 2020 in the frame of the project – “Legal Aid and Human Rights Monitoring.” In the previous reporting period¹ - from 1 July 2022 to 25 June 2023, HRC Monitors, in total, observed 157 hearings.

Human Rights Center, in the reporting period, based on the assessments of the tendencies identified in the frame of the trial monitoring, published four analytical documents: 1) A Judge's Authority to Ask Questions During the Hearing on Criminal Cases with Alleged Political Motives;² 2) Monitoring Findings Regarding Administrative Cases against Civil Activists;³ 3) Cases with Alleged Political Motives of the Pardoned Convicts Whose Hearings Are Pending before the Court,⁴ and 4) Elections-Related Criminal Cases with Alleged Political Motives.⁵

¹ See Human Rights Center, *Monitoring of Court Proceedings of the Cases with Alleged Political Motives, Summary Report, 2023*, at <https://hrc.ge/files/reports/270monitoring%20eng-final.pdf> [18.05.2024].

² Analytical document available at: <https://www.hrc.ge/576/eng/>

³ Analytical document available at: <https://www.hrc.ge/614/eng/>

⁴ Analytical document available at: <https://www.hrc.ge/635/eng/>

⁵ Analytical document available at: <https://www.hrc.ge/652/eng/>

Methodology

Human Rights Center (HRC) monitors the court hearings of the cases with alleged political motives based on the trial monitoring methodology and for the purpose of further analysis identifies shortcomings and alleged political motives in criminal, civil law and administrative cases.

Two lawyer-monitors conduct trial monitoring based on the preliminarily elaborated questionnaire. The information collected from the filled out questionnaires is processed by the lawyer-analyst and uses it for the preparation of the analytical documents and summary reports.

The court monitoring is based on the strict principles of *objectivity and non-interference in the court proceedings*. Along with the principles of non-interference, impartiality, and objectivity, with a purpose to consider the independence of the court authorities, the Human Rights Center makes the information available regarding the court hearings and the opinions to the parties of the proceedings, media, and the public.

The Report below was prepared based on the trial monitoring reports, and various documents and survey reports prepared and published about the cases monitored in the frame of the project.

Criminal Cases

Ongoing Criminal Cases

- *Criminal Case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava (November 7)*

Case review

The Tbilisi City Court examines the criminal case against ex-President Mikheil Saakashvili and former senior officials of the Government of Georgia – Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava, which refers to the mass dispersal of demonstrators on November 7, 2007, invasion into the TV-Company Imedi and getting control of it, seizure of Mtatsminda Park and Rustavi Metalurgist Factor from the family of Patarkatsishvilis.

Considering the complexity of the case, it is examined by the Collegium of the Tbilisi City Court, which is chaired by the Judge Nino Eleishvili. Because of the change of the judge in charge, based on the solicitation of the defense side, the court started re-examination of the evidence. Currently, the court is examining the evidence of the prosecution.

Findings from the Court Monitoring

In the reporting period, 17 court hearings regarding criminal cases were scheduled. Among them, 10 were held but 3 were canceled, respectively, given the health conditions of Mikheil Saakashvili,⁶ due to the absence of Ivane Merabishvili's lawyer⁷ and because of the refusal of the lawyers to participate in the proceedings in solidarity with persons the detained during the protest demonstrations against the "Russian law".⁸

During the trials, Mikheil Saakashvili joined hearings remotely; he used to make statements and then leave the proceedings. In accordance with the trial monitoring reports, all motions of Mikheil Saakashvili's lawyer to allow him to make statements were granted, except one case when the hearing was postponed because of the absence of the

⁶ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merabashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 26.07.2023

⁷ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merabashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 26.02.2024

⁸ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merabashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 22.05.2024

other defendant.⁹ Regardless the content of the statement, which mostly referred to the political developments in Georgia and globally, the Court did not interrupt Mikheil Saakashvili.

In general, Mikheil Saakashvili agreed to continue proceedings without his presence. However, there were exceptions, when the written records did not provide information about it¹⁰ or Mikheil Saakashvili had refused to continue hearing in absentia.¹¹

During the court hearings on 3 July 2023, 26 July 2023, 20 September 2023, 20 December 2023, 9 February 2024 and 27 April 2024, the Court mandatorily examined the issue of revision of imposed restrictive measure. In accordance with the clarifications of the prosecutor, still there are formal and factual grounds against Adeishvili and Kezerashvili and there are no new circumstances, which may form grounds for of changing or annulling the measure of restraint. The prosecutor believes they avoid to appear in front of the court. Based on this position, the prosecution solicited to uphold the restrictive measure- imprisonment.¹² The defense side did not share this position.¹³ Adeishvili's lawyer clarified there was no necessity to use imprisonment as measure of restraint and solicited its nullification. Kezerashvili's lawyer stated his client was a political refugee and he had not committed any crime. The lawyer solicited to annul imprisonment against Kezerashvili as there were no grounds for using the said measure of restraint against him.

The panel of the court did not replace the measure of restraint against none of the defendants and ruled that formal and factual circumstances have not changed that could be ground to change or abolish the measures of restraint.¹⁴

It is noteworthy that the judge hearing the case was changed in the reporting period.¹⁵ According to the clarifications of the Chairperson of the Panel the tenure of the third judge

⁹ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 26.02.2024

¹⁰ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 03.07.2023

¹¹ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 26.07.2023

¹² Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 03.07.2023, 26.07.2023, 20.09.2023, 20.12.2023, 09.02.2024, 17.04.2024.

¹³ Ibid

¹⁴ Ibid

¹⁵ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 03.07.2023,

of the Panel - Lia Orkodashvili - ended due to pension age; judge Lasha Kldiashvili was assigned to substituted her by random selection.

After the new judge joined the Panel, the Doffense filed a motion for re-examination of the evidence, which was granted:¹⁶

The Panel considered the motion and delivered the ruling without leaving the courtroom. The Chairperson noted that the decision was unanimous and all three members of the Panel supported it. In addition, she clarified that the judicial practice changed following the judgment of the European Court of Human Rights on the case *Svanidze v. Georgia* – witnesses were re-interrogated even in cases which were almost completely examined by the judges. “Since Judge Lasha Kldiashvili is not substitute judge, Article 183 of the Criminal Procedure Code of Georgia stipulates that the case hearing shall start anew. will be repeatedly examined, and witnesses must be personally interrogated.” Thus, the Court granted the motion of the Defense and started examination of the evidences anew.

It is noteworthy that Giorgi (Goga) Khaindrava was examined as a witness during one of the hearings. Accordance with the monitor’s report, the witness was insulting the Doffense during the examination.¹⁷

Verbal confrontation between the witness and the defense lawyers occurred during the hearing. The Panel failed to de-escalate the conflict, the witness was often aggressive towards the lawyers and used insulting words against them (“miserable,” “ridiculous”). By the end of the hearing, he cursed at lawyer Shota Tutberidze. The words were not clearly audible in the courtroom but it was possible to hear them in the video-recording of the hearing (livestreamed). The lawyers requested the court to react – to reprimand the witness but the judge tried to only verbally calm the witness down and called upon him to answer the questions politely.

At the end of the reporting period (on May 22 and May 24, 2024), the hearings were conducted in the absence of the Doffense due to their protest.¹⁸ According to them, the

¹⁶ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 20.09.2023,

¹⁷ Extract, Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 17.04.2024

¹⁸ Trial monitoring report of the HRC monitor on the case of Mikheil Saakashvili, Ivane Merebashvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava; 22.04.2024, 24.05.2024

Doffense decided not to attend the trials in solidarity with the people arrested during the demonstrations against the Russian law because the trial also concerned persons injured during the protest demonstrations. Additionally, since the court had to reconsider the measure of restraint, the court applied to the Free Legal Aid Service to represent the defendants during the trials.

The court proceedings continue in the Tbilisi City Court and witnesses of the Prosecutor's Office are being examined.

- *Criminal Case against Irakli Okruashvili and Zurab Adeishvili (so-called Buta Robakidze's Case)*

Irakli Okruashvili and Zurab Adeishvili are defendants in the so-called Buta Robakidze's case, for the crime punishable under Article 332 (3)(c) of the Criminal Code of Georgia - the abuse of power by a state political official.

The case concerns the incident that took place near the Didube Pantheon in Tbilisi on November 24, 2004, when the police patrol stopped a car of BMW brand with a driver and five passengers in the car. After stopping the vehicle, in the process of personal searches, one of the patrol officers, Grigol Bashaleishvili, accidentally triggered the service weapon and shot a passenger who was got out from the car - Amiran (Buta) Robakidze - in his left armpit, heavily wounding him and causing his death at the scene. The same night, per the prosecution's decision, this information was reported to the Minister of Internal Affairs, Irakli Okruashvili, who instructed the high-ranking officials arriving at the scene "to save the reputation of the patrol police" and to give the incident the appearance of an armed assault on the police officers by an armed group. Furthermore, according to the bill of indictment - under the instructions of the then Prosecutor General of Georgia, Zurab Adeishvili - the investigation was legally flawed insofar as the falsified evidence was procedurally validated, and the version of high-ranking officials of the Ministry of Internal Affairs were reaffirmed.

On November 19, 2019, charges were brought against Irakli Okruashvili while he was in a penitentiary facility, a few days before the expiration of the statute of limitations of 15 years.¹⁹

Judge Lasha Chkhikvadze at the Tbilisi City Court examines the case. The court proceedings are at the stage of examination of evidence of the Prosecutor's Office.

Findings from the court monitoring

In the reporting period, 8 hearings of the criminal case were scheduled. 6 of them were held, and 2 others were postponed.

In the first case, the hearing was postponed because of the absence of the witness of the prosecution.²⁰ In accordance with the trial monitoring report, one witness was to be questioned at the trial. The prosecutor solicited to postpone the hearing and clarified that the witness had called him to inform that he had to go back home given his child's health issues. As a result, the judge offered the prosecutor to forcibly bring the witness to the hearing because it was not first time when he did not appear in the court. The prosecutor said it was not necessary to forcibly bring him to the court and promised to ensure his presence at the next hearing.

The next hearing was postponed because of the absence of the prosecutor.²¹ According to the trial monitoring report, it was announced that the prosecutor had forgotten about the scheduled hearing. The judge postponed the hearing, called the prosecutor on the phone and agreed on the new date with him directly from the courtroom. The judge warned him if similar fact would happen again, he would be imposed a fine in accordance with the law.

In the reporting period, the trials were being scheduled once a month, except the three-month delay in September-November 2023, when no hearings were held at all.

¹⁹ Human Rights Center, Legal Assessment of the Criminal Case against Irakli Okruashvili, 2020, p. 28 available at: <https://www.hrc.ge/118/eng/> [02.05.2024]

²⁰ Trial Monitoring report of the HRC monitor on the criminal case against Irakli Okruashvili and Zurab Adeishvili, so-called Buta Robakidze's case; 20.02.2024

²¹ Trial Monitoring report of the HRC monitor on the criminal case against Irakli Okruashvili and Zurab Adeishvili, so-called Buta Robakidze's case; 16.04.2024

- *Criminal Case of Giorgi Rurua*

Giorgi Rurua, one of the founders and shareholders of the Mtavari Arkhi, one of the organizers and participants of the protest demonstrations of June 20-21 and November of 2019, was charged under paragraphs 3 and 4 of Article 236 of the Criminal Code of Georgia envisaging the illegal purchase, storage and carriage of firearms and ammunitions. Additionally, he is charged with committing an offense under Article 381 (1) of the Criminal Code of Georgia, i. e. the failure to execute the court decision, or the interference with the execution of the court decision. (The issue concerns the refusal of Giorgi Rurua to allow investigative actions in a penitentiary facility - namely, acquisition of DNM sample and palm prints as ruled by the court).

On November 20, 2019, the Tbilisi City Court granted the motion of the prosecution and remanded Rurua in custody for two months on the charges of illegal purchase, storage and carriage of firearms.²² On July 30, 2020, the judge of the Criminal Panel of the Tbilisi City Court, Valerian Bugianishvili, rendered a judgment of conviction against Rurua, sentencing him to 4 years of imprisonment. The Court found Giorgi Rurua guilty of both charges. The defense appealed the verdict in the Appellate Court.

On April 27, 2021, the President of Georgia pardoned Giorgi Rurua. The President made the said decision after the Agreement of April 19, 2021 (a so-called Charles Michel Document) was signed by the Georgian Dream and the opposition parties, which was achieved as a result of the negotiations facilitated by the European Union. The Document envisaged *obligation to respond to the cases perceived as politically motivated justice*.²³

Regardless of being pardoned, Giorgi Rurua continued participation in the court proceedings at the Tbilisi Appellate Court. By appealing the judgment of the City Court notwithstanding the Presidential pardon, Giorgi Rurua created a precedent in the Georgian jurisprudence, given that the Court had to examine the case, where the President has already pardoned a convict and he was, therefore, discharged from the criminal liability.²⁴

²² Human Rights Center, Criminal Case of Giorgi Rurua – Legal Analysis, 2020, 5. Available at: <https://hrc.ge/files/150RURUA-case-eng.pdf>

²³ Agreement of April 19, 2020; “A Way Ahead for Georgia,” - <https://bit.ly/4aAivD5> [02.05.2024],

²⁴ See, Human Rights Center, Cases with Alleged Political Motives of the Pardoned Convicts Whose Hearings Are Pending Before the Court, 2024. Available at https://www.hrc.ge/files/318Appeals_after_Presidential_Pardon.pdf (02.05.2024)

Findings from the Trial Monitoring

In the report period, 3 hearings of the case were scheduled, two of which were postponed – one for reasons unknown to the HRC monitor, and the second - because the hearing judge temporarily substituted a judge of another Panel.

It is noteworthy that Giorgi Rurua appealed the judgment of the Tbilisi City Court in 2020 and the first hearing of the case in the Appellate Court was held in January, 2024. Since then, two hearings were scheduled, and both of them were postponed.²⁵

- Criminal Case of Giorgi Bachiashvili

Former head of the Partnership Fund, Giorgi Bachiashvili, was charged with unlawful misappropriation of large amount of crypto-currency and legalization of unlawful revenues, respectively, under Articles 182 (2) (appropriation or embezzlement) and 194 (money laundering) of the Criminal Code of Georgia. In accordance with the information of the investigation, Bachiashvili unlawfully appropriated 8 253.12 bitcoins (at that moment with the value of 29 215 820 USD) of an investor.²⁶

After the pre-trial hearing of the case on March 27, 2024, the case was sent to the Criminal Law Panel of the Tbilisi City Court for hearing on merits.

Findings from the Trial Monitoring

On March 27, a pretrial hearing on Giorgi Bachiashvili's case was held. The defendant pleaded not guilty charges and stated that none of his actions contained signs of criminal offence.²⁷

The first hearing on merits was held about two weeks later but Judge Romeo Tkeshelashvili postponed it because he needed more time to study the case. The date for the next hearing has not been set yet.

²⁵ Monitoring report of the HRC monitor on the criminal case of Giorgi Rurua; 18.03. 2024; 17.04.2024

²⁶ See Tabula, Misappropriation of 8 253 bitcoins – criminal charges were brought against the former head of the co-investment fund, July 6, 2023, available at <http://tbl.ge/6fs0> [02.05.2024].

²⁷ Monitoring report of the HRC monitor on the criminal case of Giorgi Bachiashvili; 27.03.2024

- *Criminal Cases against Zviad Kuprava and Kakha Khachidze*

Both cases are related to the incident at the Tbilisi election precinct No. 40 during the 31 October 2020 Parliamentary Elections. In accordance with the case materials, the defendant, Kakha Khachidze, saw that a representative of the United National Movement - Zviad Kuprava was not returning a badge to his friend. After Kakha Khachidze interfered in the dispute, the situation escalated – Kakha Khachidze physically assaulted Zviad Kuprava. Later, to resolve the conflict, Zviad Kuprava called the patrol police. On the other hand, according to the bill of indictment against Zviad Kuprava, he physically assaulted a citizen (Kakha Khachidze), who suffered a physical injury and pain.²⁸

2 years after the incident, the Prosecutor's Office brought charges against both - Zviad Kuprava and Kakha Khachidze - under Article 162¹ of the Criminal Code of Georgia, which envisages violence or threat of violence at a polling station, an election commission premises, or their adjacent territory.²⁹

The case of Zviad Kuprava is being heard by Judge Gizo Ubilava in the Panel of Criminal Matters within the Tbilisi City Court. As for Kakha Khachidze's case - Judge Romeo Tkeshelashvili examines it at the Tbilisi City Court, examines it.

Findings from the trial monitoring

In the reporting period, 9 hearings of Zviad Kuparava's case were scheduled, but only two of them were held. Sometimes, the hearings were postponed due to the absence of Zviad Kuprava, because he was attending the sessions of the Tbilisi City Assembly (the defendant is acting member of the city assembly). Some hearings were postponed for the absence of the prosecutor as well.

Currently, the hearing on merits is ongoing and the court examines the evidence of the Prosecutor's Office.

Regarding Kakha Khachidze's case, two hearings were scheduled but both were postponed.

²⁸ The Prosecutor's Office Has Commenced Criminal Prosecution against Two Persons in Connection with the Violence at the Polling Station, October 27, 2022 available <https://bit.ly/43RVWHD> [05.05.2024].

²⁹ Human Rights Center, Elections-Related Criminal Cases with Alleged Political Motives, 2024, 8. Available at <https://hrc.ge/files/324Politically%20Motivated%20Cases%20RE%20the%202020%20Elections-eng.pdf> [06.06.2024].

In the cases of Zviad Kuprava and Kakha Khachidze, it is particularly interesting that both persons are, at the same time, defendants and victims in the same episode, while both cases were handled by one prosecutor. In accordance with the assessment of the Human Rights Center, this is a serious challenge and reduces the Prosecution's ability to maintain a high degree of independence and impartiality, defend the interests of the victim, correctly formulate the accusation, and collect evidence - given that the evidence, as well as witnesses, are identical in both cases³⁰. Later, after the Defense started to appeal this issue, the prosecutor in charge of Zviad Kuprava's case raised motion on his recuse.

- *Criminal Case of Iveri Melashvili and Natalia Ilichova (so-called case of cartographers)*

The Prosecutor's Office accused Iveri Melashvili, the former Director of the Bordering Relations Service of the Department for Neighboring Countries within the Ministry of Foreign Affairs, and Natalia Ilychova, former Chief Inspector of the Land Border Defense Department of the Border Police under the Ministry of Interior with an offence punishable under Article 308 (1) of the Criminal Code envisaging the action against Georgia aimed at transferring the entire territory or part of Georgia to a foreign country and/or separating a certain part of the Georgian territory.

The defendants were arrested on October 7, 2020 – one month before the Parliamentary Elections. On January 28, 2021, following the motion by the prosecution, the Presiding Judge Lela Kalichenko changed the measure of restraint applied against the defendants with a remand on bail - GEL 20,000 each. Further, the Court granted the motion of the prosecution to dismiss Iveri Melashvili from his job. In order to collect the amount of the bail, the civil movement "Shame" disseminated information on the social network. As a result, within a couple of hours, many citizens joined the campaign to assist in the release of the accused persons, collecting the full amount of the bail - GEL 40,000. The defendants were in prison from October 8, 2020 till January 28, 2021.

Hearings on merits are underway in the Tbilisi City Court and Judge Nino Natchkebia of the Criminal Law Panel is hearing the case. The witnesses of the Prosecutor's Office – former employees of the State Commission on Delimitation-Demarcation are being interrogated.

³⁰ Ibid

Findings from the court monitoring

In the reporting period, 6 court hearings were held. Since July 2023, the hearings were being scheduled every month. No hearings were held after January 22, 2024, as the judge was assigned a jury trial.³¹

The trial monitoring revealed the instances when a witness did not appear before the court; or the information provided by the witness did not refer to significant facts, which was also noted by the judge³² and hence it was recommended that the parties to agreed to declare testimonies of certain witnesses undisputable to save time and resources of the court.

Furthermore, there were instances, when the witnesses did not have information or was unable to provide the court with necessary information.³³

On several occasions, during the witness interrogation, the parties attempted to obtain more substantial information about factual circumstances of the case (specifically, regarding the maps), but in response to every question, the witness stated he coordinated the functioning of the Council and used to receive information from the third person; therefore he could not provide additional information to the court.

Since January 2024, the hearing regarding this case has not been scheduled, the date of the next trial is unknown.

- Criminal Case of Lina Dolidze

The prosecutor's office of Georgia charged Lina Dolidze with committing violence or threat of violence at a polling station, an election commission premises, or their adjacent territory or violence or threat of violence during canvassing or election campaigns.

In accordance with the case materials, on the Election Day of the 2020 Parliamentary Election, Lina Dolidze was an election observer in the election precinct No 90. in Tbilisi,

³¹ Monitoring report of the HRC monitor on the criminal case of Iveri Melashvili and Natalia Ilychova; 22.01.2024

³² Monitoring report of the HRC monitor on the criminal case of Iveri Melashvili and Natalia Ilychova; 27.09.2023

³³ Monitoring report of the HRC monitor on the criminal case of Iveri Melashvili and Natalia Ilychova; 25.10.2023

when she physically abused two men, present at the precinct without a special permission.

Charges were brought against Lina Dolidze two years later. According to the accused, she received a phonecall from police and informed that the criminal proceedings would be terminated. However, having arrived at the police office, she encountered a completely different situation and in fact, charges were brought against her.³⁴

Judge Zviad Sharadze at the Tbilisi City Court is hearing the case on the merits.

Findings from the court monitoring

The Human Rights Center has been monitoring Lina Dolidze's case since December 2023. In the reporting period, three out of five scheduled court hearings were postponed. On two occasions, the trial was postponed because the prosecutor appeared before the court unprepared.³⁵ Both times, the prosecutor failed to ensure the presence of witnesses at the trial, because he did not remember when the trials were set. In addition, the parties agreed to accept certain evidence as undisputed, in order to speed up the case examination.³⁶

During the judicial proceedings, it was possible to interrogate only one witness, who personally witnessed the incident. In accordance with the trial monitoring report, the witness did not remember how far he was standing from the place; where the incident occurred; neither did he see the victim's injuries.³⁷

- *Criminal Cases against Mikheil Saakashvili and Teimuraz Janashia (so-called case of suits)*

Ex-President of Georgia, Mikheil Saakashvili, and a former Chief of the State Security Service, Teimuraz Janashia, were charged under Article 182(3)(b) of the Criminal Code envisaging the misappropriation or embezzlement of budgetary funds in large amounts (GEL 8,837,461).

³⁴ Human Rights Center, Elections-Related Criminal Cases with Alleged Political Motives, 2024, 8. Available at <https://hrc.ge/files/324Politically%20Motivated%20Cases%20RE%20the%202020%20Elections-eng.pdf> [06.06.2024].

³⁵ Monitoring report of the HRC monitor on the criminal case against Lina Dolidze: 11.12. 2023, 25.01.2024

³⁶ Monitoring report of the HRC monitor on the criminal case against Lina Dolidze: 11.12. 2023

³⁷ Monitoring report of the HRC monitor on the criminal case against Lina Dolidze: 12.03. 2024

The prosecution argues that, in accordance with the prior agreement between Mikheil Saakashvili and Teimuraz Janashia, upon the instructions issued by the then President, state funds in the amount of GEL 8,837,461 were secretly embezzled from September 2009 to February 2013, in relation to various services rendered to Mikheil Saakashvili and other individuals in Georgia and abroad.

The case is being heard at the Tbilisi City Court, with Judge is Badri Kochlamazashvili presiding.

Outcomes of the court monitoring

Last year, because of Mikheil Saakashvili's health conditions, court hearings were not held and all scheduled hearings were postponed.³⁸

Court hearings of the case on the merits resumed in November 2023, and 6 hearings were scheduled; one was postponed due to health conditions of Mikheil Saakashvili.

Mikheil Saakashvili participated in proceedings remotely. All motions of the Defense to allow Mikheil Saakashvili to make statements were granted. In general, the content of his statements were political content, and they concerned ongoing developments in Georgia and globally.

During one of the hearings, before proceeding with Saakashvili's statement, the judge requested: "Try your best to make a statement in relation to your case and use only 10 minutes for it."³⁹

Usually, supporters of Mikheil Saakashvili attended the court hearings and they applauded when he appeared before the court. After his speech, the defendant usually leaves the courtroom and the hearing continues without him. After his statement, his supporters applaud Saakashvili and leave the courtroom together with him.

The court is now examining the evidence of the Defense and witnesses are being interrogated.

³⁸ Human Rights Center, Monitoring of Court Proceedings of Cases with Alleged Political Motives, Summary Report, 2023, 13, available at: <https://hrc.ge/files/reports/270monitoring%20eng-final.pdf> (18.05.2024)

³⁹ Monitoring report of the HRC monitor on the criminal case against Mikheil Saakashvili and Teimuraz Janashia (so-called suits' case): 21.02.2024

In accordance with the trial monitoring reports, parties to the proceedings are not clearly audible in the courtroom.

- *Criminal Case against Lasha Tsanava and Others*

On April 10, 2024, following the 30 June 2015 judgment of the European Court of Human Rights on the case *Ltd Studio Maestro and Others v. Georgia*⁴⁰ the Prosecutor's Office initiated criminal prosecution against eight individuals, among them was Lasha Tsanava, assistant to Levan Khabeishvili - a member and the Chairperson of the United National Movement.⁴¹

The criminal case concerns the dispersal of participants of a peaceful protest demonstration, held in front of the Tbilisi Police Department on June 15, 2009, when law enforcement officers used disproportionate force against the protesters. The physical violence continued in the building of the police department, where the detained protesters were taken. As a result, part of the applicants received grave injuries of health.⁴²

Outcomes of the court monitoring

The court hearings of the case commenced recently. In the reporting period, two hearings were scheduled but only pre-trial session was held.

At the trial, judge Nato Khujadze of the Tbilisi City Court inquired regarding the issue of plea-bargaining between the parties. The parties, pursuant to the law, handed each other the list of evidence and confirmed the receipt. All evidence which was declared disputable were attached to the case materials and the issue of using a measure of restraint against the defendants was examined mandatorily.⁴³ Furthermore, according to the trial monitoring report, defendant Lasha Tsanava pleaded not guilty, while one of the other defendants admitted the charges; the position of the third defendant is unknown to

⁴⁰ Ltd Studia Maestro and Others v. Georgia, N 22318/10, June 30, 2015.

⁴¹ See Public Broadcasting Channel I, Prosecutor's Office – After the judgment of the Strasbourg Court, criminal prosecution commenced against eight persons, among them Lasha Tsanava, over the case of the dispersal of peaceful demonstration on June 15, 2009, April 10, 2024 available at <https://bit.ly/3KD18ZT> [12.05.2025]

⁴² See online newspaper Netgazeti, Government admitted violation of human rights of the participants of June 15, 2009 protest demonstration, October 9, 2015, available at: <https://netgazeti.ge/news/72230/> [12.05.2024].

⁴³ Monitoring report of the HRC monitor on the criminal case against Lasha Tsanava: 21.05.2024

the HRC monitor, given that it was impossible to hear it during the proceedings due to the noise in the courtroom.

Criminal Cases Where No Court Hearings Were Held in the Reporting Period

As it was mentioned above, HRC has been monitoring the cases with alleged political motives since 2020. Thereafter, the HRC has monitored many high-profile cases, some of which are still being heard in the common courts of Georgia, while part of them has been finalized.

The Human Rights Center observed that with respect to certain cases, no court hearings were scheduled during a one-year monitoring period or even longer.

- *Criminal Case against Mikheil Saakashvili (so-called border crossing case)*

The Prosecutor's Office charged the third President of Georgia – Mikheil Saakashvili – with the illegal crossing of the state border, under Article 344(1) of the Criminal Code of Georgia. According to the Prosecutor's Office, the investigation established that, on September 28, 2021, a ship named Vilnius departing from the Port of Chernomorsk in Ukraine reached the Poti Port. On September 29, a SCANIA trailer truck owned by the IKA TRANS LLC loaded with dairy products debarked from the said ship. Mikheil Saakashvili was in the trailer, and managed cross the state border of Georgia bypassing the state control with the assistance of Elguja Tsomaia.

The case is being heard in the Tbilisi City Court. The evidence of the parties has now been fully examined. While the defendant seeks to testify before the Court, this has not been made possible due to his health condition.

Since late April 2022, the hearings were systematically scheduled on a weekly basis. However, in early *December 2022, the judge took a leave, and the date of the next hearing has been unknown thereafter.*

- *Criminal Case against Akaki Khuskivadze and Akaki Kobaladze*

Akaki Khuskivadze and Akaki Kobaladze are charged with committing an offence under Articles 339 (1), 150 (2)(b) and 151 (2)(a) of the Criminal Code of Georgia, which refer to offering a bribe to a public servant, in order that he/she take a certain action for the benefit of the bribe-giver or other person; also - coercion committed by a group of people when the victim has a well grounded fear of the coercion; as well as unlawful restriction of freedom of action by a group of persons, i.e. psychological coercion of the other to perform an action, while he/she has right to refrain from doing so.

According to the investigation,⁴⁴ on November 6, 2020, the defendants met the chairman of the Isani Election District N5 – Tedore Gobejishvili, and offered USD 50,000 for demonstratively resigning from the position of the commission chairman in favor of one of the political parties and to make publicly state with the media that the election results were fraud. He was promised to get more benefits in case he made this statement. After they received a refusal from Tedore Gobejishvili, the defendants threatened him and coerced him to accept their proposal.

The next day, on November 7, 2020, Tedore Gobejishvili, born in 1977, died in his house.

Additionally, Akaki Kobaladze was accused under Article 236 (3) of the Criminal Code of Georgia, which refers to the unlawful purchase and storage of firearms.⁴⁵

Currently, the court is examining the evidence of the Defense. The court has already interrogated the defendants and their family members. Based on the mutual agreement of the parties, certain witnesses testimonies were declared indisputable. According to the testimonies of the defendants, they neither threatened nor offered bribe to the victim. They had friendly and business relations with him.

Initially, Judge Giorgi Keratishvili was hearing the case. After Keratishvili was appointed as a Judge at the Court of Appeals, the case was assigned to Judge Lasha Chkhikvadze. The new Judge requested the parties to specify the stage from which they wanted to

⁴⁴ Police arrested two persons for bribery, group coercion and intimidation, Ministry of Internal Affairs, November 7, 2020, available at: <https://rb.gy/10yetx> [10.06.2024].

⁴⁵ See, [humanrights.ge](http://www.humanrights.ge); *HRC will monitor the court hearing of the criminal case against Akaki Khuskivadze and Akaki Kobaladze*, December 1, 2020. Available at: <http://www.humanrights.ge/index.php?a=main&pid=20290&lang=eng> [10.06. 2024].

resume the hearings. The Court agreed with the position of the Defense and proceeded with the examination of the parties' evidence.

Since May 2023, several hearings were scheduled and postponed because of absence of the prosecutor.⁴⁶

- *Criminal Case against Koba Koshadze*

Koba Koshadze – one of the bodyguards of Irakli Okruashvili, the leader of the party *Victorious Georgia* – was charged under Article 236 of the Criminal Code envisaging the illegal purchase, storage and carriage of firearms and ammunition.

On July 19, 2019, the Tbilisi City Court sentenced Koba Koshadze to imprisonment. The defense side requested to impose a bail in the amount of GEL 10,000, but the judge granted the motion of the prosecutor and sentenced Koshadze to imprisonment.⁴⁷ However, later, the court changed his imprisonment term to bail and released Koshadze from prison.⁴⁸ Koshadze denies accusation and claims that the firearm was planted. Irakli Okruashvili claims the same, who stated that the firearm was planted on Koshadze because they could not oppress him⁴⁹. Koshadze stated that when driving to Tbilisi, police stopped him and started to search his car; at the same time, according to Koshadze's testimony, one of the officers planted a firearm in his car: *"I saw that a gun was near the hand-break next to me; I smiled and told him it was not mine; he asked "what did you see?" I told him I saw the same thing what he did (...) he asked "Is the Makarov yours?" I said it was not mine... "How come it's not yours? You will find out later whom it belongs to, and how." They started to write a protocol"*.⁵⁰

Judge Giorgi Arevadze examines the case. The hearing of the case has not been scheduled for more than three years.

⁴⁶ Human Rights Center, Elections Related Criminal Cases with Alleged Political Motives, 2024, 7. Available at <https://hrc.ge/files/324Politically%20Motivated%20Cases%20RE%20the%202020%20Elections-eng.pdf> [11.06.2024].

⁴⁷ Human Rights Center, Legal assessment of the criminal cases launched against Irakli Okruashvili, 2020, 21. Available at: <https://hrc.ge/files/152OKRUASHVILI-eng.pdf> [10.06.2024].

⁴⁸ See Public Broadcasting Channel I, Member of the bodyguard service of Irakli Okruashvili Koba Koshadze was released from prison under bail of 5 000 GEL; March 5, 2020, available at: <https://bit.ly/45zIjxH> [24.06.2024].

⁴⁹ See online newspaper Tabula, Irakli Okruashvili's bodyguard Koba Koshadze was released from the courtroom, March 5, 2020, available at: <http://tbl.ge/4i37> [10.06.2024].

⁵⁰ See online newspaper Netgazeti, Okruashvili's bodyguard is sentenced to imprisonment, July 19, 2019, available at: <https://netgazeti.ge/news/381945/> [10.06.2024].

- *Criminal Case against Levan Khabeishvili*

The Prosecutor's Office of Georgia brought charges against Levan Khabeishvili, the acting Member of the Parliament, Chair of the political council of the United National Movement for the offense envisaged under Article 126(1) (violence) of the Criminal Code. According to case materials, on January 24, 2020, Levan Khabeishvili physically assaulted Irakli Zarkua, then Deputy Chairperson of the Tbilisi City Assembly, in the hall of the premises of the City Assembly.⁵¹

The Prosecutor's Office of Georgia filed a motion with the Tbilisi City Court, seeking to remand Levan Khabeishvili on bail of GEL 3,000. The motion was partly granted, and the defendant was remanded on bail of GEL 2,000.⁵²

Judge Nino Natchkebia is examining the case. The last hearing was held on April 17, 2022.

- *Case of Jelal Kiqava*

The Prosecutor's Office charged Jelal Kiqava, the supporter of the ex-president Mikheil Saakashvili, with committing an offense under the Article 266 Part I and 2 of the Criminal Code of Georgia – disrespect to the court, by insulting the participant of the court proceeding and judge.

Jelal Kiqava is the member of the regional organization of the UNM in Adjara. On March 28, 2020, because of argument with the prosecutors during the ongoing court hearing of the criminal case against Mikheil Saakashvili, Jelal Kiqava was expelled from the courtroom and fined with GEL 500. A month later the prosecutor's office determined that Jelal Kiqava committed a contempt of court and initiated criminal prosecution against him.⁵³

⁵¹ See online newspaper Netgazeti, History of controversy between opponents, June 09, 2021, available at: <https://netgazeti.ge/news/547211/> [10.06.2024].

⁵² Human Rights Center, Trends of Terminating the Powers of Opposition MPs Following the Judgments with Alleged Political Motives, 2023, 20. Available at <https://hrc.ge/files/255MONITORING.ENG.pdf> [10.06.2024].

⁵³ See, Adjara Public Broadcasting, Jelal Kikava was arrested, April 28, 2020, available at <https://ajaratv.ge/article/95707> [10.06.2024].

It is noteworthy that the defense side believes the principle “*ne bis in idem*” was breached, since Jelal Kiqava had already paid administrative fine for the offence, when the prosecutor’s office started criminal prosecution against him.⁵⁴

In addition, this case is particularly important because the basis of the criminal proceeding against the defendant was a dispute of the witness with the representatives of the Prosecution at the court hearing. While in another case, when witness Giorgi (Goga) Khaindrava verbally insulted and cursed the defense lawyer Shota Tutberidze during the court hearing of the criminal case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava (November 7), - which was reported by the HRC court monitor and was heard during livestreaming of the court hearing as well⁵⁵- the court or the prosecutor’s office did not react to the fact, notwithstanding the request of the Defense.

Judge Konstantine Kopaliani is examining the case. The court proceedings are almost finalized, but the trial has not been held since December 2022.

- *Criminal Case against Elguja Tsomaia, Giorgi Narimanidze, Zurab and Shalva Tsotsorias*

Elguja Tsomaia, Giorgi Narimanidze, Zurab Tsotsoria and Shalva Tsotsoria were arrested on charges of concealing a crime after ex-president Mikheil Saakashvili arrived in Georgia. They have been charged under Article 375(2) of the Criminal Code i.e., for concealing a serious crime without prior promise - punishable with one to four years of imprisonment.

On October 4, 2021, Judge Jemal Kopaliani of Tbilisi City Court granted the solicitation of the prosecutor to remand Elguja Tsomaia in custody.⁵⁶ On October 1, law enforcement officers detained Elguja Tsomaia for having provided his flat to Saakashvili, who was a wanted fugitive. According to the investigation, Elguja Tsomaia knew that Mikheil Saakashvili, a citizen of Ukraine, was wanted in Georgia for committing a serious crime.

⁵⁴ See TV Company TV Pirveli, UNM Member Jelal Kiqava Was Arrested, April 29, 2022. Available at: <https://bit.ly/3yUI2ZP> [10.06.2024].

⁵⁵ Extract from the trial monitoring report of the HRC court monitor on the criminal case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava, 17.04.2024

⁵⁶ See online edition Interpresnews, Elguja Tsomaia, in whose flat Mikheil Saakashvili was arrested, was sent to prison, October 4, 2021, available at <https://bit.ly/4enaiEX> [10.06.2024].

Nevertheless, on September 30, 2021, he proactively enabled Saakashvili to temporarily hide in his flat in Tbilisi.⁵⁷

The investigation argues that on September 29, 2021, after the illegal crossing of the border by Mikheil Saakashvili, Zurab and Shalva Tsotsorias drove Saakashvili in their car to one of the villages in Samegrelo. On October 5, 2021, Judge Giorgi Gelashvili within the Tbilisi City Court remanded Zurab and Shalva Tsotsorias in custody through applying a measure of restraint as requested by the Prosecutor's Office.

Giorgi Narimanidze, the driver of the truck who is the fourth person detained in the case of the third President, pleaded not guilty. According to the investigation, Giorgi Narimanidze was in the truck in which Mikheil Saakashvili arrived from Abasha to Tbilisi; he was aware of the way the President entered the country and concealed this information. The investigation is being carried under Article 375(2) of the Criminal Code of Georgia, envisaging the concealment of a serious crime without prior promise.

Initially, the criminal cases of the persons accused in this case were heard separately, and later, based on the prosecutor's decision, they were joined into one case.

The case was pending with Judge Giorgi Keratishvili. Since December 2022, the case was reassigned to Valerian Bugianishvili. The last hearing of the case was held in December, 2022. The case examination remains on the same stage and, as clarified by parties, they are in the process of plea bargaining. Currently, none of the Defendants are imprisoned.

- *Criminal Case against Giorgi Ugulava and Aleksandre Gogokhia*

The criminal case against Giorgi Ugulava, the former Mayor of Tbilisi, is at the stage of hearing on merits in the Tbilisi City Court. The Prosecutor's Office charged the defendants Gigi Ugulava and Aleksandre Gogokhia with the commission of the offenses under Article 194 and Article 362 of the Criminal Code, envisaging, respectively, the legalization of illicit income (money laundering) and making, sale or use of a forged document, seal, stamp or letterhead. Moreover, the prosecution charged Ugulava with the

⁵⁷ Ibid

abuse of official powers in the episode of City Park, as well as with organizing a group activity and coercion with respect to the Marneuli episode.⁵⁸

Judge Valerian Bugianishvili examines the case. The court hearing has not been held since June 6, 2022. At the last trial, the motion of the defense side to unite the cases was granted.

- *Criminal Case against Megis Kardava*

The Tbilisi City Court hears the criminal case of Megis Kardava - a former high-ranking official of the Ministry of Interior Affairs and Military Police - who was extradited from Ukraine to Georgia.

The prosecution charged him of having tortured three prisoners in Penitentiary Facility No.8 in 2011.⁵⁹ Megis Kardava was charged under Article 1441 (2) of the Criminal Code, specifically - for torture, envisaging 9 to 15 years of imprisonment as a sanction.

Judge Davit Mgeliashvili, who started examination of the case, was substituted by Judge Giorgi Arevadze. The case is being heard on the merits, and the evidence is being examined. The defendant stated that the case against him is politically motivated, hence he does not trust Georgian courts and refuses to participate in the court hearings.

No hearings were held since February 24, 2023 after the judge was substituted.

Criminal Cases Finalized in the Reporting Period

It is worth to note that in the reporting period, court hearings on several criminal cases monitored by the HRC - Nika Gvaramia, Mamuka Khazaradze, Badri Japaridze, Avtandil Tsereteli - were finalized in the common courts of Georgia.

- *Case of Nika Gvaramia*

The founder and Director General of the TV Company Mtavari Arkhi, Nika Gvaramia, was charged under Article 220 of the Criminal Code of Georgia, envisaging the abuse of managerial, representative or other special powers in an enterprise or other organization

⁵⁸ See Public Broadcasting Channel I, Witness of the Defense Was Interrogated in the Case of Gigi Ugulava and Businessman Aleksandre Gogokhia, December 11, 2019, available at <https://bit.ly/4bSXC6U> [10.06.2024].

⁵⁹ See online edition Radio Liberty, Megis Kardava in the case of torture of 21-years-old prisoner, April 8, 2014, available at <https://bit.ly/3VENvNe> [10.06.2024].

against the lawful interests of this organization for acquiring benefits or advantage for oneself or another person, which has resulted in considerable damage.⁶⁰

On May 16, 2022, Nika Gvaramia was sentenced by Tbilisi City Court to 3 years and 6 months of imprisonment. Judge Lasha Chkhikvadze heard the case.⁶¹ The judgment of the first instance court was appealed in the Tbilisi Court of Appeals. The latter upheld the judgment of the City Court in three episodes. In the episode of the TV Company Rustavi 2, the penalty of GEL 50,000 was changed into imprisonment for 3 years and 6 months.⁶²

The Prosecutor's Office appealed the judgment of the Appellate Court in the Supreme Court, which was declared inadmissible.⁶³ On June 22, 2023 the President of Georgia Salome Zourabichvili pardoned Nika Gvaramia and he was released from prison.⁶⁴

In accordance with the information reported on March 26, 2024, the European Court of Human Rights declared the application of Nika Gvaramia inadmissible.⁶⁵

- *Case of Mamuka Khazaradze, Badri Japaridze and Avtandil Tsereteli*

Former Chairman of the Supervisory Council of TBC Bank, Mamuka Khazaradze and his deputy, Badri Japaridze (at the time being, the leaders of the political organization Lelo for Georgia) are charged under Article 194(2)(a) and (3)(c) of the Criminal Code envisaging the legalization of illicit incomes in substantial amounts carried out by a group of persons. While the charges were brought against the father of the owner of the TV company TV Pirveli, Avtandil Tsereteli, for aiding in the legalization of illicit income (Article 25, Article 194(2)(a) and 194(3)(c) of the Criminal Code).⁶⁶

⁶⁰ See online edition Tabula, Charges were brought against Gvaramia – “He Purposefully Did Not Request 6 763 610 GEL for the Benefit of the Friends,” August 19, 2019, available at <http://tbl.ge/3xf> [11.06.2024].

⁶¹ See, TV Company Formula, Court found Nika Gvaramia guilty and sentenced to imprisonment for 3 years and 6 months, May 16, 2022, available at: <https://formulanews.ge/News/70666> [11.06.2024].

⁶² See online edition Radio Liberty, The Appellate Court left Nika Gvaramia in Prison, November 2, 2022, available at <https://www.radiotavisupleba.ge/a/32111762.html> [11.06.2024].

⁶³ Statement of the Supreme Court of Georgia, June 19, 2023; available at <https://www.supremecourt.ge/ka/news/presrelizi> [11.06.2024].

⁶⁴ See online edition Radio Liberty, President Pardoned Nika Gvaramia, June 22, 2023; available at: <https://www.radiotavisupleba.ge/a/32471204.html> [11.06.2024].

⁶⁵ See online edition Radio Liberty; Gvaramia: Strasbourg Court Declined My Application, March 26, 2024. Available at <https://www.radiotavisupleba.ge/a/32878338.html> [11.06.2024].

⁶⁶ See online edition Netgazeti, Khazaradze's Case – Money Laundering or Political Persecution, July 26, 2019. Available at: <https://netgazeti.ge/news/383446/> [11.06.2024].

On January 12, 2022, the Tbilisi City Court rendered the judgment on the case of Mamuka Khazaradze, Badri Japaridze and Avtandil Tsereteli. The Court requalified the charges brought against Mamuka Khazaradze and Badri Japaridze from legalization of illicit income (money laundering) to fraud, while the charges against Avtandil Tsereteli were changed from participation in the money laundering to participation in fraud. However, in the judgment announced on January 12, Judge Giorgi Arevadze found Mamuka Khazaradze and Badri Japaridze guilty of the offenses under Article 180(2)(a) (fraud committed by more than one person with a prior agreement) and 180(3)(b) (fraud committed in large quantities) of the Criminal Code, sentencing each of them to 7 years of imprisonment. Further, according to the judgment, Khazaradze and Japaridze were released from prison sentences because of the expiration of the statute of limitations.⁶⁷

Both parties appealed the judgment before the Tbilisi Court of Appeals. The prosecution stressed that the elements of money laundering were present in the case, but the Judge misinterpreted the relevant Article with respect to the factual circumstances and the evidence presented. Accordingly, the Judge should have rendered a judgment of conviction for the action the accused were charged for. According to the defense, there were neither elements of money laundering nor fraud, accordingly, the Judge should have rendered judgment of acquittal. On January 26, 2023, the Appellate Court upheld the judgment of the first instance court.⁶⁸

The parties appealed the decision of the appellate court in the Supreme Court of Georgia, though the latter declined the cassation lawsuit.⁶⁹ At a later stage, Mamuka Khazaradze reported that the European Court of Human Rights accepted their application for examination.⁷⁰

⁶⁷ See Public Broadcasting Channel I, Court Found Mamuka Khazaradze, Badri Japaridze and Avtandil Tsereteli Guilty but Due to Expiration of Statute of Limitation Did Not Sentence Them to Imprisonment,” January 12, 2022. Available at: <https://bit.ly/4aXxalc> [11.06.2024].

⁶⁸ See online edition Radio Liberty, The Appellate Court Upheld the Judgment of the City Court on Khazaradze-Japaridze’s Case, January 26, 2023. Available at: <https://www.radiotavisupleba.ge/a/32240593.html> [11.06.2024].

⁶⁹ See online edition Interpresnews, the Supreme Court of Georgia rejected the cassation lawsuit of Mamuka Khazaradze, Badri Japaridze and Avtandil Tsereteli, September 29, 2023. Available at: <https://bit.ly/3VnviCR> [11.06.2024].

⁷⁰ See online edition Radio Liberty, Khazaradze Said His Case Was Accepted by the Strasbourg Court for Examination, February 26, 2024. Available at: <https://www.radiotavisupleba.ge/a/32835568.html> [11.06.2024].

The Cases of Administrative Offences

- Case of Nika Melia, Henri Dolidze and Zviad Kuprava

On November 2, 2023 the Tbilisi City Court finalized the examination of the case of administrative offence of Nika Melia, Henri Dolidze and Zviad Kuprava. Judge Natia Buskadze at the Tbilisi City Court imposed penalties on each them for the violation of Article 166(1) and Article 173(1) of the Code of Administrative Offences of Georgia and fined each of them with GEL 2 000 GEL.

The case concerns an incident of September 22, 2023 in Gldani micro-district No 1, when Irakli Edzgvardadze, the opposition member of the Tbilisi City Assembly and his friends were attacked by a group of people and physically assaulted.⁷¹ The politicians, who were on the place of incident, started conflict with the law enforcement officers – they demanded prompt investigation of the incident and detention of perpetrators. The report of the MIA officers reads that all three persons disturbed public order, verbally insulted the police officers, hindered their investigative activities and disobeyed their lawful orders.

At the trial, the Prosecutor’s Office had 6 witnesses and the Defense had 5 witnesses. The statements of the Prosecutor’s Office witnesses completely coincided with each other and created an impression that the testimonies were agreed in advance. The main argument of the MIA in relation with Article 166 was that the three defendants were cursing loudly, were making noise and disturbed public order. In one episode, Nika Melia is accused of cursing the police officers. As for Article 173 – the MIA claimed that the defendants did not obey the lawful demands of the police officers to stop cursing and shouting. Also, regardless of many warnings, they crossed the yellow ribbon of the police and tried to interfere in the investigative action.⁷²

The defendants appealed the judgment in the Appellate Court. The latter examined the case without oral hearing and upheld the judgment of the first instance court.

⁷¹ See online edition Radio Liberty; MIA confirms detention of Nika Melia, Bacho Dolidze and Zviad Kuprava, September 23, 2023. Available at: <https://www.radiotavisupleba.ge/a/32605286.html> [20.05.2024].

⁷² Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Nika Melia, Henri Dolidze and Zviad Kuprava, October, 2023

Arrest of Civil Activists for Holding Protest Banners and Empty Papers

On June 2, 2023, a peaceful protest took place in front of the parliament building in the capital Tbilisi, organised by the Georgian civil society group GEUT (‘ჯოჟბო’). The activists were holding banners, calling for the respect of the rights to freedom of expression and assembly, and expressing their criticism against the Georgian authorities. In response to this, the police arbitrarily arrested at least seven protesters, including four human rights defenders.⁷³

Among the seven detainees, one was holding a copy of the Constitution of Georgia, and another was holding a blank sheet of paper.⁷⁴ Some protesters were holding banners where they modified the first name of Prime Minister Irakli Gharibashvili,⁷⁵ resulting in a pronunciation that resembled an inappropriate word.⁷⁶

- Case of Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze and Grigol Prangishvili

The Ministry of Internal Affairs of Georgia (MIA) charged Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze, and Grigol Prangishvili with committing offences under Articles 166 and 173 (1) of the Administrative Offenses Code of Georgia, which envisage minor hooliganism and disobedience to the lawful demand of the police officer. They were holding white papers with the word – Irak’li.

Witnesses were interrogated at the court hearing and the court examined the video-proofs presented by the parties.

MIA had four witnesses – patrol inspectors: Davit Giorgadze (he detained Nika Romanadze), Bidzina Zhamirashvili (he detained Nodar Sikharulidze), Agamal Askerov (he detained Prangishvili) and Koba Kapanadze (he detained Eduard Marikashvili).

⁷³ See Statement – End Arbitrary Prosecution and Protect Freedom of Expression, Human Rights Center (HRC), International Federation for Human Rights (FIDH), Norwegian Helsinki Committee (NHC), World Organization against Torture (OMCT), Geneva – Paris – Oslo- Tbilisi; June 22, 2023. Available at <https://www.hrc.ge/515/eng/> [10.05.2024]

⁷⁴ Ibid

⁷⁵ See TV Company Formula, Two Activists Detained on June 2 Were Released from Dusheti Detention Setting Based on Receipt, June 4, 2023. Available at: <https://formulanews.ge/News/91816> [10.05.2024].

⁷⁶ See Statement – End Arbitrary Prosecution and Protect Freedom of Expression, Human Rights Center (HRC), International Federation for Human Rights (FIDH), Norwegian Helsinki Committee (NHC), World Organization against Torture (OMCT), Geneva – Paris – Oslo- Tbilisi; June 22, 2023. Available at <https://www.hrc.ge/515/eng/> [10.05.2024]

They, as witnesses of the MIA, stated that they had arrested the detainees.⁷⁷ However, the detainees stated other police officers had arrested them.⁷⁸ Furthermore, the MIA witnesses could not recall all details of the detention.⁷⁹

Inspector who arrested Nika Romanadze clarified that he did not remember details from the detention moment because more than one month had passed. He remembered that the police several times warned the protesters not to open banners and avoid using insulting and obscene words because it was administrative violation and in case of disobedience to the lawful demand of police officers, they would be arrested. The demonstrators started shouting before being arrested: - “you ragtags”, “Russian police,” “slaves,” “Putin’s slaves.”

At the trial, with the participation of the witness, two video-recordings were examined which described the detention of Nika Romanadze. The witness confirmed that he could not recognize himself in the video. Additionally, Nika Romanadze said that it was possible to hear in the video whether he really said word “ragtag” or not.

Police officer who had detained Nodar Sikharulidze stated that irrespective several warnings, the protesters disobeyed the police officers; they were holding the banners with obscene words written on it and shouted insulting words that became ground of their detention. Also, in the moment of detention they insulted the police.

The witnesses stated that Nodar Sikharulidze had a banner with the following text on it – “Shame on your Georgian language teacher, Shame on your uniform.” Besides that when the defense lawyer asked the same witness whether he could read old Georgian alphabet, he said “right now, [he] cannot.”

The witness who had detained Grigol Prangishvili stated that the defendant initially obeyed the lawful demand of the police officer and took off the T-shirt but later returned back and was holding the T-shirt in his hands. The witness said the detainee did not obey the lawful demand of the police and

⁷⁷ Trial monitoring report of the HRC court monitor from the court hearing of the case of Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze and Grigol Prangishvili. 05.07.2023

⁷⁸ See online edition Publika. “Police officer told me I had unpleasant word written on the banner,” – Saba Brachveli recalled his detention, June 5, 2023. Available at <https://bit.ly/3K7XWT9> [16.05.2024].

⁷⁹ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze and Grigol Prangishvili. 05.07.2023

consequently they had to arrest him. The witness added that in the moment of detention Prangishvili verbally insulted him, when he approached him. The officer claimed it made no difference Prangishvili was wearing or holding the T-shirt in the hands when being arrested. The witness said Prangishvili called them “Russian police,” and “slaves” and on his T-shirt there was insulting word – “bitch”.⁸⁰

At the first hearing the police officer, who had arrested Eduard Marikashvili, could not attend the trial because he was abroad on business leave. MIA requested to postpone the hearing or to interrogate him remotely. The Defense agreed to postpone the hearing but categorically objected to interrogate him remotely as it was necessary to ask questions directly and be present during the examination of video-evidence.

The Judge clarified that during the working hours he could interrogate the witness remotely but as the working hours were about to end soon, and extension of the court hearing after the working hours depends on the will of the party, they could not interrogate the witness and postponed the hearing as it was requested by the MIA.⁸¹

At the next hearing, the officer who had arrested Marikashvili, clarified that in the late evening of June 2, citizens were holding a protest rally in front of the Parliament, where Marikashvili also participated. The protesters were holding banners and papers with obscene words. The witness said, notwithstanding multiple demand of the police officers to hide posters, the protesters continued violation of public order, shouted insulting words: “Irak’li,” “bitches,” etc. He added that because of similar situation they made decision to arrest the protesters and Marikashvili among others.⁸²

Marikashvili and his lawyer did not agree with the witness. They noted that Marikashvili was holding an empty paper when being arrested and he did not do anything, did not create any obstacles for anybody. In that moment, unidentified police officer approached him, grabbed him and arrested him. The video, as the Defense clarified, also showed that

⁸⁰ Ibid

⁸¹ Ibid

⁸² Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze and Grigol Prangishvili. 01.09.2023

Marikashvili was arrested by another police officer and not the witness who appeared in the courtroom. The said witness was not visible in the video at all.⁸³

Lawyer of Saba Brachveli presented the petition to the prosecutor's office and clarified that they had appealed the prosecutor's office with regard to the false testimony made by the witness in the court and requested to enclose the petition to the case files. The lawyer added that the person, who had allegedly arrested Brachveli, as it was claimed by the representative of the MIA and witness himself, was not in the vicinities of the parliament at all.⁸⁴

Representative of the MIA clarified that Brachveli had violated the public order by holding the paper with the word "Irak'li" written on it which is insulting word. He said "Irak'li" is associated with vulgar synonym of male genitalia. As the MIA officer said, Brachveli verbally insulted the police before he was arrested.

On September 27, the resolution part of the judgment of the Tbilisi City Court was announced. The judge dismissed charges under the Article 173(1) of the Administrative Offences Code of Georgia from Marikashvili, Brachveli, Romanadze and Prangishvili because of absence of offences (disobedience to police officers and insulting police). However, they were found guilty for the offence envisaged under the Article 166(1) of the Administrative Offences Code and were fined with GEL 500 each. Sikharulidze was found guilty for the offences envisaged under the Articles 173 (1) and 166 (1) and was fined with GEL 2 000.

Judge Nino Shcherbakov examined the case.

It is worth to note that all five alleged offenders appealed the judgment of the City Court in the Appellate Court, which accepted the application. Later, the court examined the case without verbal hearing and upheld the decision of the first instance court.

⁸³ Ibid

⁸⁴ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Eduard Marikashvili, Saba Brachveli, Nika Romanadze, Nodar Sikharulidze and Grigol Prangishvili: 04.09.2023

- *Case of Lasha Janjgava*

On September 29, 2023, Judge Nino Enukidze at the Administrative Cases Panel of the Tbilisi City Court found Lasha Janjgava, member of the nongovernmental organization GEUT, guilty for the offence envisaged under the Article 166 (1) and Article 173 (1) of the Administrative Offences Code of Georgia and imposed a fine of GEL 2 000.

In accordance with the factual circumstances of the case, during the protest-performance in front of the Parliament of Georgia, the police officers of the MIA administratively arrested Lasha Janjgava for the alleged violation of public order.

The witness of the MIA – police officer Gela Kurdadze was questioned at the trial. He said Lasha Janjgava was expressing disrespect towards police officers by shouting – “slaves”, “dogs” and “Irak’li” and was violating public order. The witness said the offender was holding banners with the same words. Regardless the appeals of police officers, Lasha Janjgava did not obey their demands and later when the police decided to arrest him, he tried to escape.

The Judge asked the witness to clarify the concrete action committed by Lasha Janjgava, which violated the Article 166 and 173 of the Administrative Offences Code of Georgia. Initially, the witness gave vague explanation – shouting the words “slaves,” “dogs” and “Irak’li” was hooliganism committed in the public area. As for the disobedience, the witness said his attempt to escape the detention was the violation of the Article 173 of the Code.⁸⁵

As a result of the trial monitoring, the monitor of the Human Rights Center observed that the accusation of the patrol police department was groundless; so was the evidence provided. Nevertheless, the court granted the MIA lawsuit and found Lasha Janjgava guilty.

The judgment was appealed in the Appellate Court. However, the latter examined it without an oral hearing and upheld the decision of the first instance court.

⁸⁵ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Lasha Janjgava: 18.09.2023

- *Case of Levan Nishnianidze*

Levan Nishnianidze was arrested under Article 166 (1) and Article 173 (1) of the Administrative Offences Code of Georgia while he was holding a banner with the word “Irak’li” on it and hindering the police officers to arrest Lasha Janjgava during the demonstration.

The defense side denied the factual circumstances presented by the MIA and clarified that Levan Nishnianidze was not holding the banner with the word “Irak’li” on it; he was holding a paper with a text written in old Georgian alphabet, which did not contain any obscenity. Additionally, the detainee clarified that he had not hindered the police officers to arrest the other person – he just asked them why they were arresting him.

In accordance with the observation of the HRC court monitor, the evidence presented by the MIA were unreliable and general. Their summary statement was also very general.⁸⁶

Namely, in accordance with the statement of the MIA representative, during the protest demonstration Levan Nishnianidze asked the police officer why he was arresting Jgarkava. The MIA representative clarified that by asking this question Nishnianidze hindered the police officer from performing his duties. Additionally, Nishnianidze was insulting the police and asking them – are you the police or are you criminals?! “You must not hinder police officers when you are arrested. If you are interested in the grounds of arrest, you can apply to the MIA to get clarifications accordingly,” the MIA representative said at the trial. As for the lack of video-recodings from the body cameras of the police officers, the MIA representative said that it was not common to have non-stop recordings of all police operations that could show what concrete individuals were doing in the moment of detention.

Judge Nino Shcherbakov announced the resolution part of the judgment. In accordance with the judgment, Levan Nishnianidze was found guilty for the offence punishable under the Articles 166 (1) and 177 (1); he was fined with GEL 2 000.

The judgment was appealed in the Appellate Court, which upheld the decision of the first instance court without verbal hearing.

⁸⁶ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Levan Nishnianidze: 25.09.2023

- *Case of Shota Tutberidze*

On June 2, 2023 Shota Tutberidze was arrested for the offence envisaged under the Articles 166(1) and 173(1) of the Administrative Offenses Code of Georgia – the MIA accused him of the violation of public order (he was holding a white paper with the text “Irak’li” on it) and of disobedience to the lawful demands of police.

2 months after the detention, the MIA brought the case before the court and Judge Koba Chagunava was put in charge of the case. Before the court hearing, Shota Tutberidze did not have a chance to read the case files.

According to the position of the MIA, the text [Irak’li] was an indecent expression, it did not have any context because the word is not in the dictionary; neither it has any connection with the political expression. The purpose of Tutberidze was to hold the insulting poster that violated the public order.⁸⁷

Shota Tutberidze did not agree with the position of the MIA.⁸⁸

“[...] false information is written in the police report. We saw in social network that my student was arrested for holding a blank paper. On the office envelope and not on the white paper I wrote “Irak’li” and went to the Rustaveli Avenue together with my friends. Police was on the place; they were taking photos of me. A students’ group GEUT arrived 15-20 minutes later; I did not know them and had no connection with them. They brought posters and stood in front of the Parliament. I saw some of my acquaintances there and we sat down on the stairs in front of the Parliament. I had no communication with the police – neither verbal nor by gesture; moreover, I did not insult them. Sometimes I was holding the poster in hands, sometimes it was on the ground because I was speaking on the phone and not because police ordered me to stop holding it.

Later, I heard a noise and saw about 15-20 men in police uniforms; they ran up to me and pushed me down the stairs. They took me and put in the vehicle. Police officer Gaioz Gikoshvili told me in the car that I was arrested under the

⁸⁷ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Shota Tutberidze: 15.09.2023

⁸⁸ Ibid

administrative law and they put handcuffs on me; in parallel to that he was speaking with certain Ana.

We were in the area of Avlabari, when Gaioz Gikoshvili told me – *you are not arrested, leave the territory*, and removed handcuffs. When we reached Isani area, he turned the car back and we went towards Liberty Square, where patrol inspector Shota Arjevanidze approached us, put handcuffs again and told me, I was arrested. Several times, I asked them to explain the grounds of my arrest but nobody clarified anything – neither duties nor obligations were clarified. I was taken to the police department of the MIA, where I was told to sign the protocol. I told them I wanted to make a remark but they replied – we no longer need your signature and took the police report away without my signature. I do not think I violated any law or insulted anybody. I did not use obscene words. You must terminate administrative proceedings against me.”

The testimony of the witness police officer, who arrested Shota Tutberidze, was inconsequential. He said he did not know the reason of Shota Tutberidze’s arrest; he just knew the article under which he was arrested – “I knew the article for the violation of which we arrested him. I did not have any other concrete reason.”⁸⁹

Unlike other cases, where written evidence were considered to be examined, in the case of Shota Tutberidze, the latter did not agree with the written evidence and clarified:⁹⁰

“The information provided in the protocol is not true. Neither witness testimonies are true. MIA lies to the Court claiming that there are no recordings from [video-cameras] – on June 5, I appealed them to archive and withdraw the recordings from the cameras installed on the building of the Parliament.

The Tbilisi City Court announced the resolution part of the judgment on Shota Tutberidze’s case at 18:50 pm on September 28, 2023. Administrative proceedings under the Article 173(1) of the Administrative Offences Code of Georgia stopped because of absence of offence. As for the Article 166(1), he was found guilty and was fined with GEL 500.

⁸⁹ Ibid

⁹⁰ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Shota Tutberidze: 19.09.2023

Civil Activists Arrested During the Protest Demonstrations against the Russian Law- “No to Russian Law! Yes to Europe!”

The ruling party re-introduced the bill on the transparency of foreign influence in the Parliament of Georgia on April 3, 2024.⁹¹ On the same day, the initiative of the Georgian Dream was followed by the strict criticism of the Georgian politicians⁹², media organizations,⁹³ civil sector⁹⁴ and foreign partners⁹⁵. Besides that, preparations for the protest demonstrations against the Russian Law started.⁹⁶

On April 8, the Parliament started consideration of the Russian Law at the bureau session,⁹⁷ on April 15, the Human Rights Committee of the Parliament started its examination in parallel to the protest demonstrations behind the Parliament.⁹⁸ Permanent demonstrations were held in parallel to all stages of the law examination.

In the end, since April 2024 to present, over 200 persons have been arrested during the protest demonstrations against the Russian law.⁹⁹ Big part of them had injuries incurred by the law enforcement officers.¹⁰⁰ Furthermore, Human Rights Center believes the government uses repressive mechanism against civil activists when criminal prosecution is commenced against them or/and are summoned to be interrogated.

⁹¹ See online edition BM.GE, “Georgian Dream Re-Introduces the So-called Russian Law in the Parliament,” April 3, 2024. Available at <https://bm.ge/news/otsneba-ets-rusul-kanons-parlamentshi-abrunes> [20.05.2024].

⁹² See online edition Publika, Women MPs React to the Russian Law, April 3, 2024. Available at: <https://bit.ly/4bviMI> [20.05.2024]; Political party “For Georgia”, together with the independent MP Teona Akubardia initiated the alternative bill of the Russian law, April 4, 2024. Available at: <https://bit.ly/451wAHR> [20.05.2024].

⁹³ Online edition Publika, “Independent media organizations respond to the re-introduction of the Russian law by the Georgian Dream, April 3, 2024. Available at: <https://bit.ly/4bviTmV> [20.05.2024].

⁹⁴ See TV Company Formula, “Russian Law is not choice of Georgia!” statement of over 400 organizations; April 8, 2024. Available at: <https://formulanews.ge/News/108918> [20.05.2024].

⁹⁵ Online edition Publika; EU is concerned about the re-consideration of the Russian Law, April 3, 2024. Available at: <https://bit.ly/3QZv7Mu> [20.05.2024]; 12 European countries call on the Georgian Dream to withdraw the Russian Law, April 5, 2024. Available at <https://bit.ly/3Vevfdo> [20.05.2024].

⁹⁶ See online edition Publika. Activists organize a team, who will join the anti-Russian law protest in various forms; April 4, 2024. Available at: <https://bit.ly/44Zv5Km> [20.05.2024].

⁹⁷ See online edition Publika, Parliament Launches Examination of the Russian Law, April 8, 2024. Available at: <https://bit.ly/4bPvgTS> [20.05.2024].

⁹⁸ See online edition Publika, “In parallel to the examination of the Russian Law, the protest demonstration is underway at the Parliament,” April 15, 2024. Available at: <https://bit.ly/3WUSGK4> [20.05.2024].

⁹⁹ Statement of the Georgian CSOs about the Protection of Human Rights of the People Detained during Peaceful Demonstrations, May 10, 2024. Available at: <https://www.hrc.ge/648/geo/> [20.05.2024].

¹⁰⁰ Ibid

Court monitors of Human Rights Center monitored court hearings of cases against 12 persons arrested during the protest demonstrations. The court decided to unite some of them.

- *Case of Giorgi Murvelashvili and Zurab Gikoshvili*

MIA accused Giorgi Murvelashvili and Zurab Gikoshvili with committing the offences under the Article 166 (minor hooliganism) and Article 173 (disobedience to the lawful demand of police) of the Administrative Offences Code of Georgia. As the MIA representative stated at the court hearing, both persons under administrative charges tried to break through the police cordon, were cursing and did not obey the lawful demands of law enforcement officers.

Besides the testimonies made by the witness patrol inspectors, there are no other direct evidence in the case files, which could prove the guiltiness of the alleged offenders. It was impossible to identify any of the offenders in the video-proofs presented at the trial.¹⁰¹

Judge Koba Chagunava of the Panel of the Administrative Cases at the Tbilisi City Court found both persons guilty and imposed 2 200 GEL fine on Giorgi Murvelashvili and 2 000 GEL on Zura Gikoshvili.

- *Case of Giorgi Jokhadze*

The MIA accused Giorgi Jokhadze of committing offences under Articles 166 and 173(1) of the Administrative Offences Code of Georgia.

According to the MIA, Giorgi Jokhadze was cursing at people, used insulting words against police officers, broke through the cordon, hindered the police officers from detaining offenders and did not obey lawful demands of the police.

Video-footage released by media was presented in the case files as evidence; MIA had 2 witness police officers and the defense side had 3 witnesses. Additionally, the MIA presented the written information, refusal of the person authorized to release the recordings of the body cameras, stating that similar recordings did not exist.

¹⁰¹ Court monitoring report of the HRC monitor from the court hearings of the case of Giorgi Murvelashvili and Zurab Gikoshvili, in April 2024.

Witness police officer, patrol inspector Giorgi Kharebashvili clarified that he “had left” the body camera somewhere and there is no recording of the detention moment.¹⁰²

Another witness police officer, patrol inspector Ucha Tsitlanadze clarified that he did not have recordings of the body camera because it was emergency situation and did not remember to switch it on as he time-to-time switched off the camera to save battery.

Judge Lela Tsagareishvili at the Tbilisi City Court found Giorgi Jokhadze guilty for the offence envisaged under the Article 166 and 173(1) of the Administrative Offences Code of Georgia. Jokhadze was fined with 2 500 GEL. 15 minutes later, the judge announced the resolution part of the judgment but did not mention any circumstance or evidence, which formed grounds for her decision.

- *Case of Irakli Kupradze*

The MIA accused Irakli Kupradze, a leader of the political party Lelo for Georgia, of offences under Articles 166 and 173(1) of the Administrative Offences Code of Georgia.

According to the MIA, on the April 9th Street, Irakli Kupradze tried to break through the police cordon, insulted the police and cursed at people.

The witness testimonies and video-recordings released in media were presented as evidence in the court.

The Defense solicited to request video-recordings from the three cameras installed in the vicinities of the Parliament of Georgia; the MIA representative did not agree with the motion and the court did not grant it:¹⁰³

Motion of the defense side: Irakli Kupradze was detained at the back entrance of the parliament building, near the bureau for permits. It is important to provide the court with the most impartial evidence and since there are no recordings from the body cameras of police officers, the recordings from the video-cameras

¹⁰² Extract from the court monitoring report of the HRC monitor from the hearing of Giorgi Jokhadze’s case: 25.04.2024

¹⁰³ Ibid

of the Parliament building could be trustworthy evidence – 30-minute-long non-stop footage.

In response to the motion of the Defense, the MIA representative said the Court is examining the alleged offences punishable under the Article 166 and 173(1) of the Administrative Offences Code and not legality of the detention of the accused. The detention process shall be listened to, while the cameras from the parliament building make only visual recording. MIA representative also added that their video-proofs show all episodes of ongoing developments on the place and proves their argumentation against Kupradze.

Judge did not grant the solicitation of the defense side to request video-recordings from the cameras of the Parliament building and clarified that in order to grant similar solicitation, the court must have verified information that the concrete recording exists and reflects concrete fact/individuals. Hence, without verified information, the court cannot consider the solicitation. The court clarified that the administrative institution bears burden of verification, which claims that the footage presented by them show all developments.

Afterwards, the Defense requested the change of the judge, which was declined.¹⁰⁴ The lawyer clarified that the basis of their motion was partiality of the judge and not the rejection of the previous motion.

Witness police officers were questioned at the trial; they spoke about the offence allegedly committed by the accused. Additionally, the witnesses provided incoherent information in their testimonies. Besides that, Irakli Kupradze was arrested on April 16 while the detention report was dated April 18.

Judge left courtroom for the decision and returned one hour later. She announced the resolution part of the judgement without any clarifications and indication at the evidence.

In accordance with the resolution part, Irakli Kupradze was found guilty under Articles 166 and 173 of the Administrative Offences Code and was fined with GEL 2 500.

¹⁰⁴ Ibid

- *Case of Otar Murvelashvili and Gela Khasia*

The MIA accused Gela Khasia, member of the political party *Girchi – More Freedom* and Otar Murvelashvili, participant of the demonstration, of the violation of Articles 166 and 173 (1) of the Administrative Offences Code of Georgia. According to the MIA, on April 16, 2024, Gela Khasia was standing in front of the police on the April 9th Street and tried to break through the police cordon. He was cursing at people. Police many times ordered Khasia to obey the lawful demand of the police but he continued violation.

Khasia did not agree the clarifications of the MIA and noted that he was not arrested on the April 9th Street and he did not try to break through the police cordon; neither did he curse at anybody nor police ordered him to obey their lawful demands. Khasia said the police officer pushed him, shouted at him and was aggressive. Khasia asked him why he behaved aggressively and in response to that police officers ran up to him, and hit him in the head and abdomen. He kneeled down. In parallel to the physical abuse, the police officers were shouting that he was beaten “on behalf of Garibashvili and Kobakhidze.” They cursed at him and warned him not to come to the demonstration next time if he was afraid of being beaten up.¹⁰⁵

With regard to Otar Murvelashvili’s case, the MIA had the same clarification – on April 16, 2024 he was standing in front of the police on the April 9th Street together with Khasia and tried to break through the police cordon; he was also cursing at people. The police called on him to obey the lawful demands many time, but he continued breaching the law.

The alleged offender clarified that he was arrested on a completely different street and could identify people who arrested him. Namely, Otar Murvelashvili was peacefully standing on the Chichinadze Street together with his friend. Riot police officers ran up to them and kidnapped him. Nobody called on them to obey orders. Otar Murvelashvili tried to run away during the dispersal but could not. Two persons arrested him at the corner of the Chichinadze and Zubralashvilis streets and “dragged” towards the April 9th Street. After detention, they were beating him ruthlessly. They were beating other detainees too, who were sitting in the detention vehicle and called them “gays.” Otar

¹⁰⁵ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Gela Khasia and Otar Murvelashvili: 24.04.2024

Murvelashvili clarified that in the police department, he met the police officer, who prepared the detention protocol on him.

Otar Murvelashvili said he had injuries on the body.

In both cases, the witnesses of the MIA and the Defense were interrogated. The defense clarified that the police officers, who were witnesses of the MIA, were not those who actually arrested the accused persons and the video-evidence examined at the judge's desk also proved it. Also, examination of video-proofs confirmed that Gela Khasia and Otar Murvelashvili had not committed any offence.

MIA requested to use fine as a penalty against both accused persons while the defense lawyers requested termination of administrative proceedings.

Judge Koba Chagunava at the Tbilisi City Court found both persons guilty under the Articles 166 and 173(1) of the Administrative Offences Code. Khasia was fined with GEL 2 600 and Murvelashvili with GEL 2 300.

- *Case of Aleks (Buka) Petriashvili*

MIA accused Aleks (Buka) Petriashvili, former State Minister for the Integration in European and EURO-Atlantic Structures and senior researcher of the Rondeli Foundation, with committing the offence under the Articles 166 and 173(1) of the Administrative Offences Code of Georgia.

In accordance with the MIA, on April 28, the protest participants decided to go on the stage arranged for the government-organized demonstration against the Anti-Russian Law demonstrations. The police explained to them that they could not get on the stage due to their personal safety because the installment process had not finished yet. Having heard the explanations, they decided to forcibly walk towards the stage– tried to destroy barriers and break through the police cordon while participants were pushing police officers and shouted insulting words about the police. Some people suggested to break through the cordon and get on the stage. In accordance with the MIA, Petriashvili was violating public order, did not obey the lawful demands of the police (to leave concrete area and refrain from breaking through the cordon); he was using obscene words and insulted police. The defense side did not agree with the allegation of the MIA representative.

The witnesses of the parties were interrogated at the trial; video-evidence were examined at the desk of the judge.

Witness police officers could not identify themselves in the videos. However, they claimed one of them had detained the accused person and another had witnessed the detention fact. Petriashvili clarified that riot police officers had detained him and he saw the officers, who were in the court, first time in the police department, where he was taken after detention. He said his detention was political revenge.¹⁰⁶

Judge Lela Tsagareishvili at the Tbilisi City Court left courtroom only for 20 minutes to make decision. She announced the resolution part of the judgement without any clarifications and indication at the evidence.

In accordance with the decision, administrative proceedings were terminated in relation with Article 166 (1) of the Administrative Offences Code, while Petriashvili was found guilty under Article 173 of the Code and was fined with 2 000 GEL. Additionally, he was deprived of the right to carry firearms during 6 months.

- *Case of Sandro Jokhadze and Giga Beradze*

MIA accused Sandro Jokhadze and Giga Beradze of the violation of the Articles 166 and 173 of the Administrative Offences Code of Georgia.

As the MIA representative clarified, both persons under administrative charges tried to break through the police cordon, were cursing people and disobeyed the lawful demands of the police.

In accordance with the court monitoring report of the HRC court monitor,¹⁰⁷ besides the testimonies of the witness patrol inspectors, there are no other direct evidence in the case files, which could verify the guiltiness of the accused people. Furthermore, the video and photo evidence presented in the court showed that the accused persons were standing 20-25 meters away from the police cordon.

¹⁰⁶ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Aleks (Buka) Petriashvili: 01.05.2024

¹⁰⁷ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Sandro Jokhadze and Giga Beradze: 25.04.2024

Judge Koba Chagunava at the Panel for Administrative Cases at the Tbilisi City Court, having heard the arguments of both parties, found both persons guilty and fined them with 2 200 GEL each.

Procrastinated Justice

The Constitution of Georgia ensures rights to fair and timely trial.¹⁰⁸ The European Convention on Human Rights and Basic Freedoms enshrines the right to examine the case timely, fairly and publicly. Procrastinated justice often amounts to denied justice.¹⁰⁹

The European Court of Human Rights regularly stresses that unjustified procrastination of court proceedings violates the right to fair trial guaranteed under Article 6 of the European Convention on Human Rights. Procrastination of justice in the criminal cases, besides breaching the procedural rights of the defendant, also intensifies doubts about using politicized justice against the person.¹¹⁰

The Human Rights Center constantly underlines the importance of timely justice. HRC many times observed that in the cases, where there are questions over alleged political motives, the late or procrastinated justice are particularly noticeable.¹¹¹

Furthermore, the report reviewed eight criminal cases, whose court hearings have not been held in the reporting period and in some cases, for a longer time too.

The court monitoring of Human Rights Center revealed that the defendants' rights are violated in three aspects, – (1) charges are brought late, (2) court proceedings are procrastinated because of poor court arrangement and (3) proceedings are delayed because of the parties.

¹⁰⁸ Article 31, the Constitution of Georgia

¹⁰⁹ Vazagashvili v. Georgia, 50375/07; 18.10.2019.

¹¹⁰ Human Rights Center, Legal Aspects of Procrastination in Proceedings Regarding Cases with Alleged Political Motives, 2024, 12. Available at: <https://hrc.ge/files/265LEGAL%20ASPECTS%20-eng.pdf> [27.05.2024].

¹¹¹ Human Rights Center, Legal Aspects of Procrastination in Proceedings Regarding Cases with Alleged Political Motives, 2024, 12. Available at: <https://hrc.ge/files/265LEGAL%20ASPECTS%20-eng.pdf> [27.05.2024]. HRC, Monitoring of Court Proceedings of Cases with Alleged Political Motives, Summary Report 2023, available at: <https://www.hrc.ge/519/eng/> [27.05.2024]; HRC, Cases with Alleged Political Motives of the Pardoned Convicts Whose Hearings Are Pending Before the Courts, 2024; available at: <https://www.hrc.ge/635/eng/> [27.05.2024]; HRC, Elections-Related Criminal Cases with Alleged Political Motives, 2024, available at: <https://www.hrc.ge/652/eng/> [27.05.2024];

Bringing Charges with Delay

Starting criminal prosecution against politically active people later and particularly short time before the statute limitation for criminal liability expires particularly intensifies doubts over political motives in the case.

The reports of trial monitoring demonstrate that issue of timely justice in the criminal case against Irakli Okruashvili and Zurab Adeishvili (so-called Buta Robakidze's case) is problematic. In this case, the shadow of political motives was detected even when charges were brought against defendants – on November 19, 2019, a few days before the statute limitation for criminal liability was about to expire and charges with regard to the so-called Bota Robakidze's case were brought against Irakli Okruashvili in the penitentiary establishment.¹¹²

Criminal prosecution against Lasha Tsanava started 15 years later. Charges were brought against Lina Dolidze 2 years later,¹¹³ as well as against Zviad Kuprava and Kakha Khachidze – all three cases are linked with the incidents which happened during the 2020 Parliamentary Elections.¹¹⁴

As for the cases of administrative offences, only in one case under the monitoring of Human Rights Center, the MIA appealed the court with regard to the administrative offence allegedly committed by Shota Tutberidze 2 months later.

Procrastination of court proceedings because of parties to the case

Based on the trial monitoring reports of Human Rights Center, commencement of criminal or/and administrative proceedings with a delay is a problem as well as re-scheduling of ongoing court hearings for unclear time or scheduling trials with a long intervals.

¹¹² Human Rights Center, Legal assessment of the criminal cases launched against Irakli Okruashvili, 2020, 34. Available at: <https://hrc.ge/files/152OKRUASHVILI-eng.pdf> [27.05.2024]. HRC, Cases with Alleged Political Motives of the Paroned Convicts Whose Hearings Are Pending Before the Courts, 2024, 12; available at: <https://www.hrc.ge/635/eng/> [27.05.2024];

¹¹³ HRC, Elections-Related Criminal Cases with Alleged Political Motives, 2024, available at: <https://www.hrc.ge/652/eng/> [27.05.2024];

¹¹⁴ Ibid

It is a problem that the Appellate Court started examination of the criminal case against Giorgi Rurua 2 years after the appellate lawsuit was lodged.¹¹⁵ Furthermore, both scheduled trials were postponed for reasons unknown to the HRC monitor.¹¹⁶

Additionally, the hearing of the criminal case against Irakli Okruashvili and Zurab Adeishvili (so-called Buta Robakidze's case) is scheduled once a month. In two instances, they were postponed because of absence of the witness and the prosecutor.¹¹⁷

In the case of Lina Dolidze, 5 court hearings were scheduled within the reporting period of one year but two of them were postponed; in another two sessions, the prosecutor was unprepared.¹¹⁸

Because of health conditions of Mikheil Saakashvili, the trials regarding the criminal case against Mikheil Saakashvili and Teimuraz Janashia (so-called suits' case), the criminal case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava (November 7) were not held; in two sessions Mikheil Saakashvili did not wish to continue proceedings without his participation and in another two instances, the defense lawyers in solidarity with the ongoing anti-Russian Law protest demonstrations refused to attend the court hearings.

After the parties started negotiations over plea-agreement in December 2022, the court hearings of the criminal cases against Elguja Tsomaia, Giorgi Narimanidze, Zurab and Shalva Tsotsorias were not held.

Procrastination of proceedings because of problems in the court management

Procrastination of proceedings because of unorganized court hearings is a serious problem.

¹¹⁵ HRC, Cases with Alleged Political Motives of the Pardoned Convicts Whose Hearings Are Pending Before the Courts, 2024, 14; available at: <https://www.hrc.ge/635/eng/> [27.05.2024];

¹¹⁶ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Giorgi Rurua: 18.03.2024; 17.04.2024

¹¹⁷ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Irakli Okruashvili and Zurab Adeishvili, so-called Buta Robakidze's case: 20.02.2024. Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Irakli Okruashvili and Zurab Adeishvili, so-called Buta Robakidze's case: 16.02.2024.

¹¹⁸ Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Lina Dolidze: 11.12.2023; Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case of Lina Dolidze: 25.01.2024

First of all, the overloaded court¹¹⁹ is reason for unorganized court hearings and secondly, lack of a policy to examine politically sensitive or specifically complicated cases.

The Human Rights Center underlined the issue of procrastination of court hearings because of replacement of judges that was caused by the absence of a substitute judges.¹²⁰

For example, in the course of monitoring, during 2 years, only one hearing of the criminal case against Levan Khabeishvili and Giorgi Ugulava (Tbilisi Development Fund) was held. The reason of procrastination was that non-imprisonment measure was applied against both defendants and that similar cases are not priority. Such procrastination of case hearings creates grounds to interfere in the activities of active politicians by reviving proceedings into their criminal cases and undermines their political activity.

In the criminal case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava (November 7), the Prosecutor's Office brought charges against Mikheil Saakashvili on July 28, 2014 and on August 2 the court sentenced him to pretrial imprisonment in absentia.¹²¹ As the reports of the HRC court monitoring shows, substitution of the judge caused resumption of the court proceedings from the beginning.¹²²

Similar developments were observed in the hearing of the case against Elguja Tsomaia, Giorgi Narimanidze, Zurab and Shalva Tsotsorias, case against Akakhi Khuskivadze and Akaki Kobaladze and case against Megis Kardava.

¹¹⁹ Activities Report of the Judicial System, 2017-2019 reads: "In order to assess the needed number of judges and other court staff, an expert invited by the project of USAID/PROLoG - Jesper Wittrup together with the EU, CoE and local experts prepared a study estimating the needed number of judges in Georgia. According to the findings of the experts, taking into consideration the existing case load, current number of judges is insufficient. In order to solve the problem of overloaded courts, the judiciary needs 410 (or 380-450) judges that means increasing the current number of seats by 100"; Available at: <http://hcoj.gov.ge/files/news/Activity%20Report%20of%20the%20Judicial%20System%20-%202017-2019.pdf> [27.05.2024]; Furthermore, in accordance with the statistic data published in the activities report of the judicial system, 2013-2017, in the reporting period one judge was in charge of over 1000 cases and working hours of a court office staff member reached 18 hours; available at: <http://hcoj.gov.ge/files/news/Report%20of%20the%20Judiciary%202013-2017.pdf> [27.05.2024];

¹²⁰ HRC, Elections-Related Criminal Cases with Alleged Political Motives, 2024, available at: <https://www.hrc.ge/652/eng/> [27.05.2024];

¹²¹ See online edition radio Liberty, Court Resumes Examination of the Case against Mikheil Saakashvili and other Defendants in the Case of November 7, September 20, 2023; available at <https://bit.ly/4dUfKip> [28.05.2024].

¹²² Extract from the trial monitoring report of the HRC court monitor from the court hearing of the case against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Davit Ugulava: 03.07.2023

In all abovementioned cases, the judge was changed and there was lawful ground to re-examine the cases.¹²³

The law sets forth the principle of substitution of judges to ensure that verified judgment is passed as a result of verbal examination of the case and examination of evidences and establishes the institute of substitute judge to avoid holding a criminal trial.

Substitute judge participates in proceedings, and will replace the judge if the latter leaves the composition and the case examination continues.

Common courts of Georgia do not have strategic approach which cases shall be examined with the participation of substitute judge. On the other hand, lack of judges as well as work overload of judges may be ground to deny appointment of substitute judge. However, the motive to discharge the court from overloadness cannot outbalance the right to fair and effective justice.

Human Rights Center believes it is possible to elaborate some criteria, based on which a case shall be examined with the participation of substitute judge. Those criteria may be as follows:

- The case belongs to a complicated category and a collegium examines it;
- The defendant is an active member of a political party or the case is related with the alleged abuse of office power by a political official;
- Judge in charge of the case has less than one year left before the pension age; in case of complicated cases – less than 3 years are left before his/her pension age;
- Three-year long probation period of the judge in charge expires in less than 1 year;

Similar approach will assist the court to effectively manage court proceedings and minimize the risks of procrastination because of disorganized court.

¹²³ Article 183 of the Criminal Procedure Code of Georgia: Cases shall be heard with the same composition of the court. If a judge is not able to participate in the proceedings, he/she shall be replaced with another judge of the same court, and the case hearing shall start anew, except for a case provided for by Article 184 of this Code.

Disobedience to the lawful order of police – the law applied for the punishment of the protest participants

In all administrative cases, whose court proceedings were monitored by Human Rights Center, where the proceedings started against the participants of protest demonstrations, the MIA accuses the detainees of disobedience to the lawful demand of the police officer.

In accordance with the 2024 statistic data published by the MIA, 803 cases of disobedience to the lawful demand of the police officers (Article 173 of the Administrative Offences Code of Georgia) were recorded by May 14. Among them, 317 cases happened in Tbilisi.

Disposition of Article 173 is the following: Non-compliance with a lawful order or demand of a law-enforcement officer, [...] or verbal abuse of and/or any other abusive act against such person while such person is in the line of duty (except as provided for by the Criminal Code of Georgia), shall carry a fine in the amount of GEL 2 000 to 3 000 or administrative arrest for a period of up to 15 days.

It is evident that the law clearly determines that disobedience only to *lawful* demand or order of the police is the offence and not to all his/her demands.

Furthermore, the HRC monitors observed that regardless the appeals of the defense side to the court to evaluate the lawfulness of the police orders, the court neglected their appeals and often underlined that they examined the offensive actions allegedly committed by the accused persons and not the legality of their arrest; sometimes, the court stated that evaluation of legality of police activities was the competence of another agency.

In the contrary to practice, according to the interpretation offered by the Constitutional Court, the composition of the administrative offense clearly indicates and *expressis verbis* declares punishable any disobedience to a law enforcement officer's order and demand that is lawful. The courts of general jurisdiction are obliged, before recognizing a person as an offender, to examine the lawfulness of the demand or order of a law enforcement officer, for the non-compliance of which the person bears an administrative responsibility.¹²⁴

¹²⁴ Ruling of the Constitutional Court of Georgia, December 23, 2022, on the case *Natalia Peradze and Konstantine Guruli v. the Parliament of Georgia*; available at <https://constcourt.ge/ka/judicial-acts?legal=14765>, [11.02.2023].

Therefore, the Human Rights Center believes it is important that the court initially examined the lawfulness of the demand of a police officer while examining the administrative case against the participant of a protest demonstration under Article 173 of the Administrative Offences Code (because the protest demonstration has different peculiarities) – issue of lawfulness of the police officer’s demand is a immanent pre-condition to find an accused person guilty for the violation of Article 173 of the Code.

Conclusion

From July, 2023 through June 2024, the court monitors of Human Rights Center observed 93 court proceedings of 31 criminal and administrative cases with alleged political motives. The report reviewed the problematic issues identified in the course of trial monitoring of criminal and administrative cases, where there are questions about alleged political motives in them.

Based on the court monitoring reports, Human Rights Center believes the issue of procrastinated justice is still a problem. The court monitoring revealed that procrastination is caused by the fault of trial parties and the court itself. Furthermore, the issue of bringing criminal charges against the defendants later, when short time is left before the statute of limitation for criminal liability expires, is also problematic.

Human Rights Center believes one of the mechanisms to mitigate the risks of the procrastinated justice is to activate the institute of substitute judge as it is determined in the Criminal Procedure Code of Georgia, and which will significantly reduce the procrastination of the court proceedings in some instances; it will also reduce the risk of misusing the procrastination of proceedings by the parties.

In relation with the cases of administrative law, it is a problem that a person is found an offender without unity of valid evidence. Also, one and the same individuals are invited as witnesses at different proceedings, while they provide only general information to the court.

Using the Administrative Offences Code against the participants of protest demonstration as a punishment mechanism is very problematic. Besides that, the court declares the people guilty without substantial examination of the case.

In conclusion, these are the violations, which intensify the doubts about politically motivated justice in the above-listed cases.

Recommendations

To the Judiciary:

- ! To make the institute of substitute judge effective and elaborate criteria to select the cases, where substitute judges will be appointed;
- ! To ensure examination of cases within reasonable timeline, avoid artificial procrastination of proceedings and if parties try to procrastinate the process, use all lawful measures to combat it;
- ! To take measures to technically equip the courtroom for the examination of evidence, to ensure that court hearing was conducted remotely without delay and to ensure audibility in the courtroom;
- ! Judges shall ensure complete, comprehensive, impartial, unbiased and fair examination of cases of administrative offence;
- ! Judges shall ensure division of burden of proof among the parties in accordance with the law and not to grant priority to the evidence provided by either party without their substantial examination.

To the Prosecutor's Office:

- ! To prevent artificial procrastination in the commencement of criminal prosecution;
- ! To use measures of disciplinary liability against the prosecutors who appear in the courts unprepared or do not appear in the court for unjustified reasons.