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## Strengthening Monitoring and Advocacy Capacities for Rights in Georgia

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3 October 2024

### ***Brief Monitoring Report regarding Torture and Inhuman Treatment against Protest Participants***

Within the scope of the project – *Strengthening Monitoring and Advocacy Capacities for Rights in Georgia*, the Human Rights Center (hereinafter, the “HRC”) monitors public assemblies and demonstrations taking place in Tbilisi in order to inform the public about the development of events taking place during the assemblies, as well as about the compatibility of actions carried out by the governmental institutions with international human rights standards.

On April 3, 2024, the ruling party, Georgian Dream, reintroduced the Law on the Transparency of Foreign Influence<sup>1</sup> which was followed by large-scale and continuous protest demonstrations of the society.<sup>2</sup> The main venue of the protest was Rustaveli Avenue and the area surrounding the building of the Parliament of Georgia. Monitors of the Human Rights Center were monitoring public assemblies from the first day, they documented the developments during the assemblies by taking photos and videos, reported on the mobilization of a large amount of law enforcement officers, the use of disproportionate force in response to specific incidents during the protests, the cases of unlawful detention of protesters and the possible abuse of official powers.<sup>3</sup> It is noteworthy that, unlike other protest demonstrations, during the monitoring of the assemblies against Russian Law, in parallel to the identified human rights violations, other systemic problems were also observed: the „internal enemy“ narrative against the protest participants and human rights defenders disseminated by the government members through the use of administrative resources,<sup>4</sup> disinformation and smear campaign, intimidation, threats, and physical attacks on the protesters and human rights defenders (who were attacked, among others, near their residential houses), and intimidating or/and insulting phone calls.<sup>5</sup>

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<sup>1</sup> Webpage of the Parliament of Georgia: Procedures to consider the bill on the transparency of foreign influence, available at: <https://parliament.ge/legislation/28355> [03.04.2024].

<sup>2</sup> Civil.ge - news blog: “Yes to Europe, No to Russian Law” – demonstrations against the foreign agents’ bill, June 5, 2024, available at: <https://civil.ge/archives/600995> [26.06.2024].

<sup>3</sup> Human Rights Center, *Brief Monitoring Report regarding April 15-17 Protest Demonstrations*, April 29, 2024, available at: <https://www.hrc.ge/640/eng/> [27.08.2024].

<sup>4</sup> Joint statement of Human Rights Center and OMCT/FIDH – Observatory for the Protection of HRDs, *Georgia: Serious deterioration of the situation of human rights defenders*, June 26, 2024; available at: <https://www.hrc.ge/666/eng/> [27.08.2024].

<sup>5</sup> Statement of the Personal Data Protection Service, available at: <https://www.interpressnews.ge/ka/article/800682-personalur-monacemta-dacvis-samsaxuri-mukaris-shemcveli->

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Besides other human rights violations, the inhuman and degrading treatment of the protest participants in the moment of detention or/and afterward - when they were transported to the temporary detention centers - were particularly concerning; in some cases, the treatment against them amounted to torture.<sup>6</sup>

The Constitution of Georgia stipulates that „human dignity shall be inviolable and shall be protected by the State“.<sup>7</sup> The Constitution prohibits torture, inhuman and degrading treatment of a person, and the use of inhuman or degrading punishment,<sup>8</sup> which mirrors Article 3 of the European Convention on Human Rights.<sup>9</sup> For the purposes of this norm, torture cannot be defined as an action of a specific individual to revenge on another person or obtain information or confession testimony from him/her. „It can be used for other, larger purposes like instillation of fear in the society<sup>10</sup> that can be achieved by purposeful illegal actions – torture. Thus, in accordance with the contemporary law, what was perceived to be an inhuman or degrading treatment before, can now be deemed torture“.<sup>11</sup>

According to the assessment of the Human Rights Center, in the light of international human rights standards, besides the abuse of power and blatant violation of the right to freedom of assembly and expression by law enforcement officers, the use of all police units for facilitation of assemblies was problematic, insofar as it created a risk of escalation and often served as a pre-condition to use disproportionate force. Besides patrol police, the officers of other units of the Ministry of Internal Affairs were also mobilized on the sites of the demonstrations against the Russian Law – including: the Special Tasks Department, Community Officers, Criminal Police and others. Furthermore, unidentified individuals were mobilized on the site, and - as the HRC monitors’ reports show – they had active communication with the MIA representatives. They took photos and videos of active participants and organizers of the protest. Besides, they reported to the senior officials of the Special Tasks Department, which

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<sup>6</sup> Joint statement of the human rights organizations: Legal Evaluation of the April 30-May 1 Rally Dispersal, available at: <https://www.hrc.ge/641/eng/> [27.08.2024].

<sup>7</sup> Constitution of Georgia, Article 9 (1).

<sup>8</sup> Ibid, Article 9 (2).

<sup>9</sup> Article 3 of the European Convention on Human Rights.

<sup>10</sup> Netgazeti, *Head of the special riot police to journalist: I am beating scoundrels; we have a list.* May 28, 2024; available at <https://netgazeti.ge/life/724434/> [27.08.2024].

<sup>11</sup> Supreme Court of Georgia, *Prohibition of Torture: Reflecting the standards established under the Articles 3 and 6 of the European Convention on Human Rights in the National Judicial Practice, 2019*; editor. Marine Kvatchadze, available at: <https://www.supremecourt.ge/uploads/files/1/pdf/adamianis-uflebata-centri/wamebis-akrzalva-me3-me6-muxlebit.pdf> [27.08.2024].

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was followed by intentional persecution of protesters, their administrative detentions and often physical violence after such arrests. After being detained, civil activists and members of opposition political parties became victims of physical violence and inhuman treatment.

The leader of the Anti-Occupation Movement “Strength is in Unity”, Davit Katsarava, was arrested in front of the building of the Parliament of Georgia on May 14. Before his arrest, Katsarava was publicly addressing the law enforcement officers mobilized on site, when masked officers of the riot police approached him and arrested him without any resistance from his side; Katsarava was taken towards the “detention van”. Later, as reported by the media, Davit Katsarava was ruthlessly beaten in the head and face. He was taken to hospital, where he underwent several surgeries. As the activist stated later, after he was arrested and handcuffed, the police officers surrounded him and beat him up several times. After that, they took his photos and verbally insulted him.

To evaluate the severity of „treatment“, the context, form, duration of treatment, physical and moral harm, and sometimes the gender, age, or state of health shall be taken into account. Apart from objective circumstances, it is also important to consider a subjective assessment of the victim, public opinion, and the level of tolerance towards given actions. Consequently, the intensity and duration of physical violence against Davit Katsarava might amount to torture.

The leader of the political party *United National Movement*, Levan Khabeishvili, and the chairman of the political party *Citizens*, Aleko Elisashvili, were severely beaten up in the moment of detention. In both cases, elements of the use of excessive force by police and inhuman treatment were observed. The Special Investigative Service investigates these cases under the article of the abuse of official power by violence.

The use of disproportionate force, physical violence, and inhuman and degrading treatment by law enforcement officers against the peaceful protesters was mentioned in the statements of the Public Defender of Georgia and international human rights organizations, among them they mentioned the alleged use of probated non-lethal rubber bullets produced in Turkey. „Based on various sources, since mid-April of 2024, during the violent dispersal of the peaceful demonstrators, at least 300 persons were arrested; dozens of protesters were severely beaten up during the detention and transportation to temporary detention facilities. In the majority of cases, the detainees were deprived of their procedural rights; police officers did not clarify the reasons for their arrest, they were not allowed to contact lawyers or/and family members, and sometimes they did not have access to timely and adequate medical treatment. Defense lawyers and family members did not have information about their whereabouts for a long time.

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Accordance to the information provided by the representatives of the Public Defender’s Office of Georgia to the Human Rights Center,<sup>12</sup> the monitors of the Public Defender, within their mandate, visited 183 persons detained during the protest demonstrations against the Russian Law. 95 of them complained about physical harassment during the detention or/and before being brought to the temporary detention facility. The detainees also complained about psychological harassment and inhuman and degrading treatment. Dispersal of the peaceful demonstrations by illegal and disproportionate power on April 30, May 1, and 13 are particularly alarming.<sup>13</sup> In all three cases, termination of the assembly and use of special means by police officers was against the law, since none of the protests were unlawful to justify the termination of the assembly by law enforcement officers. There were no grounds for using physical force and special means to disperse the protest; considering the sporadic character of incidents in the vicinities of the parliament building, the special measures taken by police forces cannot be deemed proportionate.

Considering the abovementioned, we recommend:

*The Ministry of Internal Affairs:*

- to engage only the units with respective competence and officers trained for the facilitation of public assemblies in the process of facilitation;
- to combat “persecution operations” against the protesters for the purpose of physical revenge and intimidation, which will have a chilling effect on the freedom of assembly and expression;
- to eliminate physical violence against the protest participants during and after the moment of detention;
- to respect the universal prohibition of torture and inhuman treatment during the facilitation of public assemblies, as well as during and after the detention of protesters;

<sup>12</sup> Meeting of the Human Rights Center with representatives of the Public Defender’s Office – members of the Department of Primary Examination of Rights Violation and the Department of Criminal Justice. 11.07.2024.

<sup>13</sup> Radio Liberty, *Kicks and feasts against handcuffed demonstrators – encouraged violence?* May 13, 2024, available at:

<https://www.radiotavisupleba.ge/a/%E1%83%AC%E1%83%98%E1%83%AE%E1%83%9A%E1%83%94%E1%83%91%E1%83%98-%E1%83%93%E1%83%90-%E1%83%9B%E1%83%A3%E1%83%A8%E1%83%A2%E1%83%94%E1%83%91%E1%83%98-%E1%83%AE%E1%83%94%E1%83%9A%E1%83%94%E1%83%91%E1%83%A8%E1%83%94%E1%83%99%E1%83%A0%E1%83%A3%E1%83%9A-%E1%83%93%E1%83%94%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%A1%E1%83%A2%E1%83%A0%E1%83%90%E1%83%9C%E1%83%A2%E1%83%94%E1%83%91%E1%83%A1/32944352.html> [27.08.2024].

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- to respect the freedom of assembly and abstain from the dispersal of assemblies and manifestations without a legitimate aim and grounds prescribed by law;
- to respect the requirements of the Georgian legislation and international standards with respect to the facilitation of public assemblies and to abstain from the use of special means disproportionately, without legal grounds and legitimate aims.

*The Special Investigation Service:*

- to ensure timely, comprehensive, and impartial investigation of the facts of torture, inhuman and degrading treatment of protest participants by MIA officers;
- to launch an investigation regarding the possible facts of abuse of official powers by MIA officers;
- given the high public interest, to periodically and proactively inform the public about ongoing investigations.

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