



## Strengthening Monitoring and Advocacy Capacities for Rights in Georgia

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31 May 2023

### *Joint Statement on the Dispersal of Protest Demonstrations by Police Forces in Georgia*

The draft laws on Transparency of Foreign Influence and Registration of Foreign Agents initiated by members of the parliamentary majority caused unrest and protests among the public. The two draft laws were registered with the Parliament of Georgia on February 14 and February 27, 2023, respectively. According to the authors, both drafts would have been adopted in the first reading and sent to the Venice Commission for their assessment afterward.

The Parliament commenced the hearing regarding draft laws on the so-called Foreign Agents under an expedited procedure, causing a protest inside the parliamentary opposition as well as severe protests outside the Parliament, among the public. The draft laws included provisions that could have been used to restrict the rights to freedom of assembly and association, as has been reported in countries with similar legal instruments such as the Russian Federation.<sup>1</sup> Furthermore, as these bills contained provisions that contradict EU fundamental rights and rule of law standards, their adoption would have had a negative impact on the implementation of the 2014 EU-Georgia Agreement.

On March 2, the Committees for Foreign Relations and for Defense and Security heard both draft laws in a joint session, with strong denunciations by the opposition and noise in the background. Simultaneously to this session, a protest rally “No to the Russian Law!” was held. The police detained 36 participants of the rally, including journalists.

On March 6, the Committee for Legal Matters proceeded with a hearing regarding the draft laws and approved them, notwithstanding the protest of MPs from the opposition. At the same time, citizens assembled in front of the Parliament to form a protest rally with a demand that the Russian law be rejected. A session of the Bureau was scheduled for the same

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<sup>1</sup> Council of Europe (2023). State of Democracy, Human Rights and the Rule of Law. Report of the Secretary General of the Council of Europe, p. 8, available at: <https://rm.coe.int/secretary-general-report-2023/1680ab2226> [accessed 26 May 2023].



day, at 15:00; however, the session was postponed until March 7, 10:00. Meanwhile, the regular session of the Parliament was planned for March 9.

On March 7, at the plenary sitting, the Bureau approved the draft laws for hearings at the regular session. The members of the parliamentary majority reiterated that the draft laws would be heard at the regular sitting on March 9. Nevertheless, after the protest rally near the Parliament was postponed for March 9 and protesters left the area, the parliamentary majority changed the agenda of the existing regular sitting, and the Parliament began to hear the draft law on Foreign Influence Agents in the first reading. Such a change in the agenda was shortly followed by a protest demonstration of an even larger group of people, which continued throughout March 8-9.

On March 7, the demonstration was taking place peacefully. Around 20:00, by the end of the session of the Parliament and after the adoption of the bill in the first reading, arrangements were to be made in order for the MPs to leave the Parliament from the yard through the gates located at the wings of the Parliament, namely - on Chitadze Street and Chichinadze Street. By this time, the police had created cordons at the gates, hindering the free movement of the protesters on the streets. Shortly, without any warnings, the police started to disperse the protesters with special means - water cannons and pepper spray.

Dispersal of the peaceful protest through special police means amounted to a breach of the Order on Keeping, Carrying, and Using Police Special Equipment, issued by the Minister for Internal Affairs of Georgia. Article 4 (2) of the said order stipulates that an authorized police officer shall warn the protesters before using special means and give them sufficient time to disband. Moreover, police officers must use special means in accordance with the principle of necessity. On March 7, the police utilized the special means in breach of the principle of necessity, while the warning regarding the use of the special means was only voiced after they were already used, and in a situation where the protesters did not have enough time to disband. The aforesaid is incompatible both with international standards and Georgian legislation. Under Article 33 of the Law of Georgia on Police, water cannons, armored vehicles, and other special transportation means are used to prevent mass violations of legal order; to repel group attacks on the state and/or public facilities; to stop a vehicle by force if the driver does not obey a police officer's demand to stop, or to detain an armed perpetrator. At the protest rally of March 7, none of the above-mentioned occasions occurred. Therefore, the police used the water cannon without any legal grounds. Moreover, as per international practice, the use of water cannons to disperse peaceful citizens is not justified.

On March 8, some of the demonstrators attempted to picket the Parliament premises. While the demonstration in itself was peaceful, the actions of certain protesters fell outside the scope of protection of the peaceful assembly and manifestation. Furthermore, to disperse the protests of March 8-9, the police once again resorted to special means, including water cannons and pepper spray, and began to detain protesters in the streets, in a church, and in supermarkets. The media circulated video footage, which shows that the police were adding pepper spray to water for the water cannon, against the established international standards, thereby creating the risk of purposefully inflicting harm upon individuals. The breach of international standards also occurred when the police used pepper spray indiscriminately against the protesters, regardless of whether their behavior was violent or not. Moreover, on one occasion, it was documented that the police officer pepper-sprayed one protester directly in the eyes, without any grounds for invoking this measure.

[According to the assessments by the Human Rights Center, Georgian Democracy Initiative, and other human rights advocates providing legal aid](#), it is an established standard that even if one or some protesters conduct themselves inappropriately, a peaceful assembly in itself will not immediately acquire a violent nature. Law enforcement agencies must differentiate between peaceful and violent participants. Mere facts of isolated violent actions or violence attributable to some protesters during the rally may not, as such, serve as grounds for restricting the right to peaceful assembly. Law enforcers should not treat the assembled people identically when detaining them or when dispersing the assembly by force as a last resort.

According to the statement issued by the Ministry of Internal Affairs on March 9, 133 persons had been detained under Articles 166 and 173 of the Administrative Offenses Code of Georgia for offenses taking place during the protest rally near the Parliament on March 8-9, while one person was detained under Article 353<sup>1</sup> of the Criminal Code of Georgia for attacking the police officers. Instances of disproportionate use of force and violence against the detainees were observed in the process of detentions by the police. Furthermore, the police interfered with the journalists' professional activities and used violence against them.

During the protest rallies of 7-8-9 March, the facts of violation of the domestic law and international standards were identified, in particular: the police used special means against the protesters without warning, freedom of assembly was unjustifiably restricted, the pepper spray was used to purposefully target individuals and to add it to the water cannon water, a disproportionate force was used for dispersing the protest and violence was exerted both against protesters and reporters.

While administrative judicial proceedings with respect to some demonstrators have been finalized before the court of first instance, proceedings regarding the liability of other demonstrators detained on 7-9 March are still pending before the court as of now. Oftentimes, the court imposes large fines upon the offenders without adequate reasoning. Moreover, both - the referral of the cases to the court by the Ministry of Internal Affairs and court hearings are carried out in an unorganized manner; as a result, parties to the case are not duly informed about the dates of referral of respective cases regarding administrative offenses to the court, and they are not provided with case materials in a timely manner. Defense counsels are deprived of the possibility to communicate with their clients and obtain evidence. Therefore, the defense counsels are hindered in providing effective defense to persons detained at the protest rally.<sup>2</sup>

Currently, administrative and criminal proceedings are pending either before the Tbilisi City Court or before the Tbilisi Court of Appeals. However, no action has been taken for the purpose of investigating the potential excess of force by the police.

Taking into account all the aforesaid, we call upon:

*The Special Investigation Service:*

- to ensure a timely, thorough, and objective investigation regarding the cases of the alleged use of excessive force by law enforcement agents, as well as instances of unlawful interference within the journalists' professional activities and acts of violence committed against them;
- to regularly provide the public with information regarding the initiation and progress of investigations, as well as the related findings, given the high public interest in the issue.

*The Office of the Chief Prosecutor of Georgia:*

- to investigate the lawfulness of an order regarding the use of special means as well as the scope of their use;
- to regularly provide the public with information regarding the progress of investigations and related findings, given the high public interest in the issue.

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<sup>2</sup> Joint Statement of Georgian CSOs on Cases of Persons Detained on 7-9 March 2023, Human Rights Center, available at: <http://www.hrc.ge/488/geo/> [26.05.2023].



*The Ministry of Internal Affairs of Georgia:*

- to respect the freedom of assembly enshrined in the Constitution of Georgia and abstain from unjustified interference within the protected scope of the said right;
- to ensure that the respective representatives of the Ministry of Internal Affairs issue prior warnings and give the participants of rallies sufficient time to disperse, as required under the Georgian legislation;
- to ensure that the special means be used in accordance with the principle of the proportionate use of force, only in situations of extreme necessity;
- to act in accordance with Georgian legislation and international standards when using special means to disperse rallies.