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## Strengthening Monitoring and Advocacy Capacities for Rights in Georgia

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### *A Brief Monitoring Report regarding the Practice of Preventing the Placement of Tents in Public Spaces to Exercise the Freedom of Assembly*

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 Georgia 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.

From May 28 to June 4, the observed Beka Grigoriadis protest demonstration, held 20 meters away from the back entrance of the Parliament of Georgia, at Oliver and Marjory Wardrops Square. The purpose of the protest was to demand the release of his son, a detained civil activist - Lazare Grigoriadis while trying to set up a tent in the Square.<sup>1</sup> During the first days, law enforcement officials did not allow him to set up the tent. Moreover, the policemen confiscated Beka Grigoriadis' tent several times and did not provide him with explanations regarding the procedure for confiscation or the return of the property by drawing up the corresponding report.<sup>2</sup>

According to the HRC monitors, a number of procedural violations were identified in the process of preventing the setting up of the tent, alongside the illegal and gross interference with the freedom of assembly and expression.<sup>3</sup> For example, on May 29, before setting up the tent or before its confiscation, the police officers did not call upon the organizer of the demonstration to comply with the demand. Furthermore, they did not explain to him the legal basis for confiscating the tent. Violent methods were used to prevent the tent was prevented from being set up. In addition, the police officers have neither prepared the appropriate documentation nor explained the procedure for confiscating the tent and its subsequent return

According to the HRC monitors, a disproportionate number of police officers were mobilized during the Beka Grigoriadis' protest. For example, approximately 25 police officers were present during the demonstration on May 30, including several high-ranking officials of the Ministry of Internal Affairs, while the number of participants did not exceed 18 people. On the

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<sup>1</sup> Human Rights Center, *Monitoring Report regarding the Protest Demonstration of Beka Grigoriadis*, 13 July 2023, available at: <https://shorturl.at/fpq12> [23.10.2023].

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.



same day, despite the persistent efforts of Beka Grigoriadis to set up the tent, the police once again used force to stop him.<sup>4</sup>

The situation became especially tense on June 1, when Beka Grigoriadis was prevented from setting up his tent once more. He explained to the police that setting up the tent served to express his opinion. According to the HRC monitors, Grigoriadis' actions and statements did fall outside the scope of the constitutional right to peaceful assembly. Accordingly, as a result of preventing the setting up of the tent over several days by the law enforcement officers, Beka Grigoriadis' freedom of assembly and expression was restricted disproportionately and without any legal grounds.

On June 1, several other civil activists joined Beka Grigoriadis' demonstration. At around 10 PM, Grigoriadis announced that he was going to set up his tent again, which was followed by another violent interference on the part of the police - Grigoriadis was arrested without a warning before he started setting up his tent. On May 29, after confiscating the tent of Beka Grigoriadis, the police arrested a civil activist, Bezhan Tsvimitidze, who was video-recording the actions of the police on his mobile phone. The activist disappeared for several hours after his arrest. The police did not allow him to contact his family or his lawyer. By 2 AM, he was transferred to the Dusheti temporary detention facility, which is about 50 kilometers from Tbilisi. According to the lawyer, during the arrest, Bezhan Tsvimitidze was subjected to physical abuse, and his shirt was torn; he also sustained several physical injuries.<sup>5</sup> Furthermore, according to the HRC monitors, during the seizure of Beka Grigoriadis' tent, the law enforcement agents used disproportionate force, and the activist was detained by violent methods.

On June 2, the Tbilisi City Court fined Grigoriadis with 2000 GEL. It is noteworthy that during the hearing on the administrative offense case against Beka Grigoriadis, the argument that setting up the tent “distorts the appearance of the city” was voiced by the Ministry of Internal Affairs for the first time.<sup>6</sup>

According to the HRC monitors, the tent, if set up, would not have blocked the entrance to any building or impeded traffic. Therefore, there was no reason to prohibit setting it up. In addition, it is interesting that after the decision of the Tbilisi City Court, Beka Grigoriadis was able to set up his tent in Oliver and Marjory Wardrops Square on July 3 without being obstructed by the police. As of today, Beka Grigoriadis continues to protest with the same demands by using the tent.

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.



On October 5, 2023, the Parliament of Georgia, in the third reading, in an accelerated manner, by 74 votes against 22, adopted an amendment to the Law “On Assemblies and Demonstrations”,<sup>7</sup> which was vetoed by the President of Georgia.<sup>8</sup> The primary goal of the amendments to the Law of Georgia “On Assemblies and Demonstrations” is to prohibit the use of temporary structures, including tents, during assemblies and demonstrations for the purpose of protesting. According to the draft law, participants in an assembly or demonstration are prohibited from erecting temporary constructions if they pose a threat to assembly participants or other persons, interfere with the protection of public order and security by the police, disrupt the normal functioning of an enterprise, institution or organization, or are deemed unnecessary or unrelated to the organization of the assembly. Ensuring public safety and order as well as the normal functioning of enterprises, institutions, and organizations is indicated as the basis for applying the restriction.<sup>9</sup>

The legislative amendments were criticized by human rights organizations, as well as the Public Defender of Georgia.<sup>10</sup> The HRC believes that the prohibition of setting up a tent at a protest on the grounds defined by the amended law constitutes an unjustified interference in the freedom of expression and assembly and goes against international standards and the case-law of the European Court of Human Rights (the “ECtHR”).

The right to freedom of peaceful assembly protects the multitude of ways, means, and tools for people to gather in public and private spaces. This is recognized as an important criterion of a democratic, tolerant, and pluralistic society. According to the joint opinion of the Venice Commission and the OSCE, freedom of assembly and expression protects, among other things, the right to protest by setting up a tent.<sup>11</sup>

According to the OSCE Office for Democratic Institutions and Human Rights (the “ODIHR”),<sup>12</sup> restrictions on the erection of tents and other structures during assemblies and demonstrations may apply only when the prerequisites for restricting the assembly are met.

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<sup>7</sup> See: Website of the Parliament of Georgia, *The Parliament Adopted an Amendment to the Law on Assemblies and Demonstrations on Third Hearing*, 5 October 2023, available at: <https://shorturl.at/gCFKV> [31.10.2023].

<sup>8</sup> Interpressnews, *The President Vetoed the Amendments to the Law on Assemblies and Demonstrations*, 17 October 2023, available at: <https://shorturl.at/adpA3> [31.10.2023].

<sup>9</sup> See: Explanatory Note for the Draft Amendments to the Law Georgia on Assemblies and Demonstrations, available at: <https://shorturl.at/NRTVW> [9.11.2023].

<sup>10</sup> Public Defender of Georgia, *Statement of the Public Defender of Georgia on the Draft Amendments to the Law on Assemblies and Demonstrations*, 4 October 2023, available at: <https://shorturl.at/NRTVW> [9.11.2023].

<sup>11</sup> European Commission for Democracy through Law (Venice Commission), OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), *Guidelines on Freedom of Peaceful Assembly*, Strasbourg / Warsaw, 15 July 2020 Study n° 769/2014 CDL- AD(2019)017rev., 3<sup>rd</sup> edition, para. 148.

<sup>12</sup> OSCE/ODIHR, *Opinion On Amendments To Certain Laws Of Ukraine Passed On 16 January 2014*, Warsaw, 10 February 2014, para. 2.4 Freedom of Peaceful Assembly and Temporary Installations Accessible at: <https://shorturl.at/afqvE> [9.11.2023].



Otherwise - the blanket limitation of such installations, various constructions, or tents violates the freedom of assembly.

Following the Public Defender's request, the ODIHR issued an urgent opinion, where it noted that the new grounds for prohibition, as proposed by the amendments, are too broad and lacked a clear definition, which could give the public authorities a possibility to apply the law in an arbitrary and discriminatory manner.<sup>13</sup> Furthermore, the opinion underlines that the amendments are indirectly discriminatory against political dissent or opposition.<sup>14</sup> Overall, the ODIHR concluded that the amendments to the Law on Assemblies and Demonstrations failed to meet the requirements of the necessity and their proportionality with respect to the aims indicated in the Explanatory Note.<sup>15</sup>

According to the case-law of the ECtHR, setting up a tent - whenever this is aiming to express a political opinion - is protected under the freedom of expression.<sup>16</sup> The Constitution of Georgia sets forth the grounds for restricting the freedom of expression. However, introducing legislative amendments to impose blanket legislation on setting up protest tents should be considered a violation of this right.

Sharing the international standards, the HRC believes that setting up a tent to express protest is an integral part of the freedom of assembly and expression, and shall not be restricted without the grounds stipulated by the Constitution of Georgia. The aforesaid legislative amendments, in turn, fail to meet the requirements.

Taking into account the aforementioned, we recommend:

*The Parliament of Georgia:*

- to refrain from imposing restrictions on freedom of assembly in the law-making process.
- to take into account the obligations under international human rights treaties, the jurisprudence of the European Court of Human Rights, and international standards when adopting or amending legislation regulating the freedom of assembly and expression.

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<sup>13</sup> OSCE/ODIHR, *Urgent Opinion on Proposed Amendments to the Law of Georgia on Assemblies and Demonstrations And To The Administrative Offences Code*, Warsaw, 6 November 2023, p. 3, available at: <https://shorturl.at/uJKMT> [23.11.2023].

<sup>14</sup> Ibid, p. 4.

<sup>15</sup> Ibid, p. 3.

<sup>16</sup> *Frumkin v. Russia*, no. 74568/12, § 107, 5 January 2016.



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*The Ministry of Internal Affairs:*

- to disallow the illegal restriction of the freedom of assembly guaranteed by the Constitution of Georgia and give participants of public assemblies an opportunity to set up and use tents without any hindrance to express their protest.

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