A large scale police operation in Tbilisi Night Clubs on May 12, 2018

Today, on July 23, the Georgian Young Lawyers Association (GYLA) and the Human Rights Education and Monitoring Center (EMC) presented a joint report regarding the events of 12 May 2018.

The report concerns a large scale police operation carried out in Tbilisi night clubs on May 12, 2018 and the events related thereof. The Joint report evaluates the lawfulness of the searches conducted in clubs, the dispersal of the peaceful assembly nearby the club □□□□□□□□ A and the detention of dozens of protesters for administrative offenses by the police. The report gives the legal assessment of only the events of May 12, and the document does not focus on the events that took place in Tbilisi in the following days that were linked to massive police actions carried out on May 12.

The assessments provided in the report are based on the information obtained from various sources. The authors of the report, in the process of working on the report,

obtained detailed explanations from 38 persons participating in the May 12 events, processed information received from public authorities, examined the materials of administrative proceedings and other official documents.

As a result of the thorough examination of the issues, the report authors have identified the following major shortcomings related to the May 12 police operation:

- The police operation conducted on May 12 events, considering its time, form, and the intensity of its conduct, has been a particularly large scale police operation of the recent years. The appearance of a large number of police officers, including armed special forces, simultaneously in two Tbilisi night clubs, gave rise to the feeling of fear and insecurity among people gathered on the ground and created an impression of the state demonstrating the repressive power;

- On May 10, 2018, Tbilisi City Court issued a warrant for conducting search in the nightclubs. The court order did not specify which item / object would be searched for and seized based on the permission granted to the police to enter the clubs, which is one of the essential requisites for such court order;

- The court order in respect of the grounds for conducting search in each night club was not supported by reasonable doubt standard. The reasoning part in the court order is abstract and generalized;

- It still remains unclear what was the purpose of the police raids on the clubs during the night of May 12, when, before entering the club, the police had already arrested 8 persons for dealing drugs;

- If the police had the intention to detect narcotic drugs on the territory of the clubs, then it is unclear why the police did not conduct the searches at the time when there were no particular events planned in the club, even if we consider that the police had obtained the search warrant from the Court on May 10;

- On May 12, the searches were carried out in both clubs during late hours. The legislation allows conducting any searches in the nighttime only in the case of urgent necessity. Nevertheless, the search protocol does not mention the state of urgent necessity;

- It is still problematic the issue of using the special forces in the search procedure.

Involvement of the Special Forces in the May 12 police operation can be assessed as a demonstration of force and a disproportionate measure of force in the situation when there was no information about an armed person or potential resistance inside the club;

- The legal basis related to the activities of the special forces is secret, which excludes the possibility of carrying out a proper examination of this issue and represents a significant obstacle to the accountability of the authorities;

- Although the Ministry of Internal Affairs of Georgia declared that no personal searches were conducted on the premises of the club, several persons in their interviews stated that the police searched three persons on the spot, however this action was not reflected in any of the legal documents;

- The police was distinguished with aggression against spontaneous protesters in the vicinity of the club "Bassiani". A large number of law enforcement officers mobilized outside the club did not allow persons outside the club to enjoy their right to peaceful assembly;

- The police forcefully cleared the sidewalks and pushed the peaceful protesters off to different areas of the street. The police did not make any preliminary warnings to protesters and did not give them a reasonable time to leave the territory peacefully;

- During the protest outside the club Bassiani, law enforcement officers detained more than 40 persons for administrative offenses, including potential leaders and organizers of the rally. The use of large-scale detentions by the police left the impression of arbitrariness which was directed at neutralizing the protest mood;

- Some detainees indicated that the police used disproportionate force. The administrative detention protocols indicate the physical injuries of five persons. The state of one of the detainees is particularly severe whose medical records show the fracture of the left shoulder bone;

- None of the persons interviewed for the study purposes were informed of the essence of an administrative offense and the grounds for detention. They were not also explained their rights, including the right to have a defense counsel;

- In some cases, police officers who presented allegations before the court against certain persons did not actually participate in the arrest and did not personally

witness them committing the alleged administrative offense;

- The court decisions against 4 persons are superficial and are based on the information provided in the administrative detention and administrative offense protocols presented by law enforcement officials;

- The absence of "standard of proof" in the Code of Administrative Offenses gives law enforcement officials the possibility to follow only formal and non essential grounds for the purpose of submission of evidence.

Taking into consideration the problems identified in the report, the research team addresses the state bodies with the following recommendations, that:

- The Prosecutor's Office should start an investigation on any alleged facts of unlawful personal searches conducted inside the premises of the club "Bassiani" on May 12;

- The Prosecutor's Office should also initiate an investigation related to any alleged facts of unlawful detention of protesters and exceeding of power by the police officers on May 12;

- The General Inspection of the Ministry of Internal Affairs should study the episode of dispersal of the spontaneous rally from the area adjacent to the club "Bassiani" on May 12. In the course of the investigation, it must be identified who was responsible for taking the decision regarding the dispersal of the rally and what were the specific instructions given to the law enforcers concerning the management of the protest rally on May 12;

- The judiciary should demonstrate due diligence to reviewing the lawfulness of searches on a higher standard;

- The Parliament of Georgia should carry out fundamental reform of the administrative offenses code and ensure the fair trial guarantees in the judicial proceedings;

- The Ministry of Internal Affairs of Georgia should publish the legal acts regulating the activities of the special task forces;

- MIA should comply with the requirements of the Law on Assemblies and Manifestations and refrain from arbitrary and unreasonable use of administrative

detentions as well as prevention of peaceful enjoyment of the right of assembly in this way;

- MIA should provide further training for its staff related to the management of peaceful assembly, communication with organizers of rallies and citizens;

- The Ministry of Internal Affairs and the Prosecutor's Office should publish the results of the ongoing investigation regarding the fatal overdose cases and provide additional information to the public on the results of the large-scale police actions held on May 12;

- For the purpose of ending political manipulations with the issue of drug policy, the Parliament should take a political decision on timely implementation of the reform and support the draft bill developed with a broad consensus, which has been initiated in the Parliament already for a year.