



GYLA's Assessment of the Events that took place on 23 February.

Unfortunately, the Georgian government failed to defuse the current political crisis and de-escalate the ongoing processes through peaceful negotiations. The authorities did not heed the multiple calls. The arrest of the leader of the opposition party through the police forces has aggravated the current situation.

It is crucial for the Georgian government to take constructive steps to bring the country out of the political crisis, also to prevent interference with the right of assembly/demonstration and allow demonstrators to exercise their constitutional rights.

Short Overview:

The enforcement of court ruling was preceded with political processes. On 16 February 2021, the Parliament gave prior consent to the Office of the Prosecutor General of Georgia to file a motion to the Court to replace the bail on the MP and the Chairperson of the United National Movement, Nika Melia with a stricter measure of restraint.[1] As a result, on February 17, the Tbilisi City Court imposed remand detention to Nika Melia.[2] The substantiation of the court's decision to replace the bail with remand detention raises questions.[3]

On 18 February 2021, the Ministry of Internal Affairs of Georgia issued a statement regarding the execution of the mentioned ruling.[4] On the same day, Prime Minister Giorgi Gakharia resigned,[5] for which he named the reason to be a disagreement with his teammates over the detention of the United National Movement leader, Nika Melia.

The Ministry of Internal Affairs temporarily postponed the planned measure due to the created political situation.[6] On 22 February, the Parliament declared a vote of confidence to the new candidate for the post of Prime Minister, Irakli Gharibashvili.[7] The next day Nika Melia was detained.[8] Such actions by state agencies leave an impression that decisions concerning this case, are made not according to the legal but political purposes.

Evaluation of the Conducted Special Operation:

A large-scale police force has gathered near the UNM office with the purpose to detain Nika Melia, and during the arrest process, a chemical irritant, allegedly pepper spray, was used against leaders of political parties and citizens gathered in the building.[9] Special chemical irritants (including pepper spray) are used to incapacitate violent resistance[10] when there is an immediate and imminent danger of injury.[11] They should not be used during passive resistance[12], as well as in enclosed environments where there is no adequate ventilation or safe exit.[13] In such a case, there is a risk of serious health injury.[14] Chemical agents should only be used when law enforcement has sufficient information to prove that these agents will not cause any unwarranted/unjustified health problems[15]. It is necessary to use them properly, which means spraying tear gas/pepper spray to a person from a distance of a up to several meters.[16] Repeated or prolonged use should be avoided.[17]

In this case, the citizens gathered in the office of the United National Movement did

not resort to violence. They were in an enclosed environment, and it was impossible to leave the building safely and instantly. This is evidenced by the fact that one of the people in the building tried to break the window, allegedly to ventilate the lack of air created by the applied chemical irritants.[18] Based on all this, the police violated the law and international standards by using chemical irritants in the above-indicated circumstances.

Seized Computer Hardware:

In addition, it was reported that computer equipment was seized from the office of the United National Movement. This is an investigative action strictly regulated by the Criminal Procedure Code, which in all cases requires to have a legitimate purpose. In this case, as it concerns the extraction of data from the computer system at the headquarters of one of the opposition parties, which may be related to the activities of a political party, the relevant authorities must clearly explain to the public the substantiated legitimate purpose of the investigation.

Administrative Detentions:

During the events that took place near the UNM office, the police administratively detained several people[19] and unjustifiably detained a civil activist, Nodar Rukhadze, during a peaceful protest in front of the Georgian Parliament. [20] It should be stressed that the Code of Administrative Offenses of Georgia sets out the purposes and grounds for administrative detention, as well as the procedure for detention. In the process of administrative detention, law enforcement officials should comply with the requirements of the law. They mustn't employ administrative detention to suppress a peaceful protest, to remove persons from a particular place, and/or for other purposes not deriving from the law and that are based solely on the discretion of individual police officers or their superiors.

In recent days, we have seen numerous cases whereof law enforcement officials interfered with the right of assembly, in particular, the police unjustifiably denied protesters the right to set up a tent in the vicinity of the Parliament building on Rustaveli Avenue. This was undeniably a violation of the law.[21]

Based on all this, we call on the Georgian authorities to:

- Take all measures to de-escalate and normalize political processes;

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- guarantee the right to peaceful assembly of demonstrators and not use police force to suppress peaceful protests.

[1] "Parliament Lifted Nika Melia's Immunity for the Second Time", *Website of Radio Liberty*, 16.02.2021. Available at: <https://www.radiotavisupleba.ge/a/31105623.html>.

[2] "The Court Imposed Remand Detention to Nika Melia, *Website of Radio Liberty*, 17.02.2021. Available at: <https://www.radiotavisupleba.ge/a/31107595.html>

[3] "GYLA and EMC Respond to the Imposition of Remand Detention Against Nika Melia", *Georgian Young Lawyers Association Website*, 18.02.2021. Available at: <https://bit.ly/2NT2hjj> .

[4] "Statement of the Ministry of Internal Affairs", *Website of the Ministry of Internal Affairs*, 18.02.2021. Available at: <http://bit.ly/2OVViGC>.

[5] "Giorgi Gakharia has Resigned from the Post of the Prime Minister", *Website of Radio Liberty*, 18.02.2021. Available at: <https://www.radiotavisupleba.ge/a/31108927.html>

[6] "Statement of the Ministry of Internal Affairs", *Website of the Ministry of Internal Affairs*, 18.02.2021. Available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/14411>.

[7] "Parliament has Expressed a Vote of Confidence to the Government Led by Irakli Gharibashvili", *Website of the Georgian Government*, 22.02.2021. Available at: http://gov.ge/index.php?lang_id=GEO&sec_id=556&info_id=78664.

[8] "Nika Melia is Detained", *Website of Radio Liberty*, 23.02.2021. Available at: <https://www.radiotavisupleba.ge/a/31116776.html>.

[9] Paragraph 1 of Article 12 of the Law of Georgia on Police.

[10] OHCHR, *Guidance on Less-lethal Weapons in Law Enforcement*, (2020), p. 7.2.2. Available at: https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

[11] Ibid, see p. 7.2.3; OSCE, ODIHR, *Handbook on Monitoring Freedom of Peaceful Assembly*

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, Second Edition, (2020), 92. Available at:

https://www.osce.org/files/f/documents/d/1/473439_0.pdf.

[12] OHCHR, *Guidance on Less-lethal Weapons in Law Enforcement*, (2020), p. 7.2.7.

[13] Ibid; Tali v. Estonia, App no. 66393/10, (ECtHR. 2014), p. 78; Amnesty International, *Use of Force: Guidelines for Implantation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, (August 2020), 157.

[14] OHCHR, *Guidance on Less-lethal Weapons in Law Enforcement*, (2020), p. 7.2.7.

[15] Ibid. see p. 7.2.3.

[16] Ibid. see p. 7.2.2.

[17] Ibid, see p. 7.2.6.

[18] Live broadcast of Mtavari TV, February 23, 2021, 08:50:49, see

<http://www.myvideo.ge/tv/mtavari/2021-02-23/08:50:49>.

[19] “According to the Ministry of Internal Affairs Information, 21 people were detained near the office of the National Movement, including Giorgi Baramidze”, *Website Interpressnews*, 23.02.2021. Available at: <https://bit.ly/3slAmXY>; The detainees were later released on the basis of a handwritten assurance note, see „21 People Detained at the National Movement Office were Released on the basis of a Handwritten Assurance Note, *Website of Radio Liberty*, 23.02.2021. Available at: <http://bit.ly/37CvaHd>.

[20] “Nodar Rukhadze was Detained for Calling Gharibashvili a Slave”, see <https://www.facebook.com/tvpirveli/posts/1888339464658685>.

[21] "GYLA Calls on the Ministry of Internal Affairs to Respect the Right to Hold Assembly by Setting up a Tent on the Sidewalk", *Georgian Young Lawyers Association Website*, 19.02.2021. Available at: <https://bit.ly/2MggfuX> .