

Rallies Under Observation

Interim Monitoring Results of Protests and Trials of January 2020

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1. Methodological framework

The Democracy Research Institute has been observing the rallies of political content, organized by political parties and civil movements, since December 30. As part of the project, monitors also observed the trials of demonstrators detained during the rallies. A total of four monitors observed the rallies and trials.

At the initial phase of the project, we provided information on the project activities to all stakeholders and met with representatives of the civil movements - Shame, Dare and Change.

This monitoring report covers the period from December 30, 2019 through January 30, 2020. During the reporting period, the organization's monitors observed twelve rallies and seven court sessions.

Monitoring focused on general description of the ongoing protests and demonstrations. The report also assesses the practice of the use of administrative detentions and the court hearings of offences relating to the protests.

Within the framework of the project, based on the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly, we developed a special form for monitoring assemblies and demonstrations, which helped us systemize important facts and violations in the monitoring process. A group of lawyers from the organization also developed a special questionnaire to assess both procedural issues and those related to a fair trial.

In addition, within the monitoring, we:

- requested public information from public agencies
- analyzed civil activists' photo-video footage showing the protests
- used photo-video footage of the media as an auxiliary source.

2. Monitoring results of rallies

Organizers of the rallies held in late December and January were mostly the civil movements - Dare, Change and Shame. The number of demonstrators ranged from 20 to 100. About half of them were women.

The main demands of the rallies were: introduction of a proportional electoral system, elimination of arbitrariness of state and political officials and release of persons arrested on alleged political grounds. The civil movements also showed their solidarity with Malkhaz Machalikashvili, father of Temirlan Machalikashvili, who was killed in a special operation conducted by the State Security Service.

With the exception of the December 31 rally, the protests were mostly peaceful. Law enforcement officers and protesters verbally confronted each other at 2 out of the 12 monitored rallies. At one of the rallies, confrontation took place between protesters and activists of the ruling party.

Demonstrators did not use the mechanism of preliminary warning in writing for holding rallies, due to lack of such an obligation/need. Protesters' attitude towards the police was neutral, though they complained that "instead of protecting civilians," the police were protecting "abusive politicians."

The responses of law enforcement officers were largely proportional. However, according to the observers, in some cases, police officers acted not in accordance with law, but according to the instructions of their superiors, which was evident during the trials of the detained demonstrators as well. Specifically, according to our observers, at the December 31 rally, the police were biased and inactive and they used excessive force, while officers of the City Hall Security Service performed police functions.

Key findings

2.1. Performance of police functions by Tbilisi City Hall's Security Service

On December 31, 2019, the authorities used officers of Tbilisi City Hall's Security Service and Cleaning Service to disperse demonstrators in front of the Parliament and to remove their belongings.

Monitoring of the protests and trials showed alleged misconduct by the officers of the City Hall's Security Service, in particular:

- Performance of police functions - removal of demonstrators from the Parliament area against their will;
- Removal of demonstrators' tents and belongings from the Parliament area and use of force in this process.

Officers of the City Hall and the Ministry of Internal Affairs, by the help of the City Security Service and the Cleaning Service, made demonstrators leave the front area of the Parliament, where children's entertainment space was later arranged. After the New Year's celebrations, the Tbilisi City Hall fully fenced off the area in front of the Parliament with the aim to launch rehabilitation works. The Democracy Research Institute has requested documents from the City Hall, the full provision of which will enable us to assess the rehabilitation planning and preparations, as well as its reasonability and compliance with legislation.¹

2.2. Regulation of rallies by law enforcers

In some cases, the number of law enforcement officers mobilized at the demonstration was significantly higher than the number of demonstrators. Monitors of the Democracy Research Institute have repeatedly noticed people in plain clothes, whose direct and frequent contact with law enforcers made

¹ Letter No 2020013043 of the Democracy Research Institute, January 30, 2020.

us think that they were representatives of the law enforcement agencies themselves, without wearing uniforms or having any proper identification mark.

In certain cases, law enforcers' actions were chaotic, badly organized and unsubstantiated. According to the observers, in some cases, police officers acted not in accordance with law, but according to the instructions of their superiors, which was evident during the trials of the detained demonstrators as well.

In one of the cases,² although demonstrators had obtained a special permit, law enforcement officers did not allow them to enter the Parliament building on the motive that the system was "out of order". In another case,³ neither demonstrators nor MPs from the United National Movement party were allowed to enter the City Assembly building, against the requirement of the regulations of the Parliament of Georgia.⁴

At one of the rallies, during the confrontation between demonstrators and activists of their opposing political party, law enforcers did not try to eliminate the conflict or defuse the situation.

Monitoring results of trials

The monitors of the Democracy Research Institute observed the trials of civil activists⁵ arrested on charges of petty hooliganism⁶ and disobedience to the legal demand of law enforcement officers⁷ near the Parliament building on December 31, 2019, (3 trials, a total of 7 court sessions⁸).

Technical violations

Almost all sessions (except one) began late, which can be explained by the unexpected change of a courtroom ahead of the main hearing (in four cases), without properly posting the mentioned information on the relevant website or the notice board of the Tbilisi City Court, late arrival of a judge (in two cases) and late arrival of the party (in one case).

Despite the high public interest towards the case, the majority of stakeholders were unable to attend the trials due to the small size of the courtroom.

² December 21, 2020, when MPs were listening to the Public Defender at the sitting of the Parliament's Committee on Human Rights and Civil Integration. The Minister of Justice also attended the Committee sitting.

³ On January 27, 2020, when demonstrators were protesting against the beating of City Assembly Member Levan Khabeishvili.

⁴ According to Article 8, paragraph 1, subparagraph b.a, of the Rules of Procedure of the Parliament of Georgia, an MP has the right to enter all state buildings without any obstacle, with the exceptions provided for by law.

⁵ Shotadze, Parulava, Rukhadze, Berdzenishvili, Burduli, Kokaia, Mumladze, Mzhavanadze.

⁶ Administrative Offences Code, Article 166.

⁷ Administrative Offences Code, Article 173.

⁸ January 8, January 14, January 23; January 13, January 20, January 22.

Improper performance of duties by law enforcement officers

During the questioning of witnesses, some police inspectors and criminal police officers, who were questioned as witnesses, said that contrary to the requirements⁹ of the Administrative Offences Code, during detention, demonstrators were not provided with information about:

- An administrative offence committed by them and the grounds for detention
- Their right of access to a lawyer
- Their right to notify a relative chosen by them about their detention and whereabouts, if they wished so.

In addition, two patrol inspectors stated that they had not turned on a video recording device¹⁰ during the detention of demonstrators, which can be considered to be an improper performance of duties under legislation.

During the examination of evidence, it was found out that almost all documents drawn up during the detentions were identical, which may indicate that the patrol inspectors had not drawn up those documents based on factual circumstances. In addition, substantial inconsistencies were found between the testimonies of patrol inspectors questioned as witnesses in the court and the actual circumstances reflected in the video footage.

It should be emphasized that the court admitted irrelevant evidence during the consideration of a case on its merits, namely: one of the arrested persons (N.R.) could not be seen in the video footage submitted by the Ministry of Internal Affairs. The video evidence adduced by the Ministry of Internal Affairs against six detainees, not only failed to prove the commission of actions under Articles 166 and 173 of the Administrative Offences Code of Georgia, but even annihilated the testimonies of the witnesses of the Ministry of Internal Affairs.

It should also be noted that due to the lack of proper equipment in the courtroom, only the parties were able to fully watch the video evidence, which does not comply with the principle of publicity of examination of evidence.

Judgment

When delivering a judgment, the court relied on the video evidence, which led to termination of proceedings against the majority of the detainees. It is also worth noting that the court found the word “slave” towards the law enforcement officers to be offensive and therefore considered the act to be an offence under Article 173 of the Administrative Offences Code of Georgia.

⁹ Administrative Offences Code, Article 245.

¹⁰ Law of Georgia on Police, Article 24, paragraphs 1 and 2.

