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Strengthening Monitoring and Advocacy Capacities for Rights in Georgia

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Brief report of the Human Rights Center regarding the use of special means by the police

Within the scope of the project - Strengthening Monitoring and Advocacy Capacities for Rights in Georgia, the Human Rights Center (hereinafter, “HRC”) monitors the public assemblies and demonstrations in Georgia in order to inform the public about the development of events during the assemblies, as well as the compatibility of actions carried out by the state institutions with international standards of human rights protection.

The HRC Monitors observed the matters related to the use of special means by the police, which manifested themselves, among others, during the March 7-9 demonstrations, where citizens protested the draft bills “On Transparency of Foreign Influence” and “On Registration of Foreign Agents”, initiated by members of the parliamentary majority.¹ These demonstrations were monitored by the HRC in their entirety. The purpose of this brief report is to reflect the main findings of the monitoring regarding the violation of the rules of using special means and the use of disproportionate force during the dispersal of the assembly participants. According to the HRC Monitors, the assembly held on March 7 was peaceful.² Around 8 PM, the Parliament adopted the bill “On Transparency of Foreign Influence” in the first reading.³ By this time, the number of rally participants exceeded 10,000.⁴ It was necessary to let the members of the parliamentary majority out from the parliament building through the side entrances of the Parliament located on Chitadze and Chichinadze Streets. The riot police set up a cordon at the entrances of the Parliament and did not allow the demonstrators to move through these streets. Around 8:20 PM, on Chichinadze Street, the police used pepper spray⁵ without prior warning and began to disperse the participants of the assembly, which was soon followed by the use of another special means – namely, the water cannon. In this case too, the participants of the rally were not warned by the police in advance.⁶

¹ Human Rights Center Monitor’s Monitoring Report on the Protest Rally in Tbilisi. 7-9.03.2023.

² Human Rights Center Monitor’s Monitoring Report on the Protest Rally in Tbilisi. 3/7/2023.

³ The Parliament supported the bill “On Transparency of Foreign Influence” in the first reading, Interpressnews, March 7, 2023, available at: <https://rb.gy/laigi> [17.09.2023].

⁴ Human Rights Center Monitor’s Monitoring Report on the Protest Rally in Tbilisi. 07.03.2023.

⁵ Ibid.

⁶ Disproportionate use of force - how do former ombudsmen assess the dispersal of the March 7 protest?, Radio Liberty, 8 March 2023, available at: <https://rb.gy/6c7tk> [17.09.2023].

The warning about the use of special means was announced only post-factum - when the participants of the rally no longer had enough time to disperse. Furthermore, according to the HRC monitors, during the March 7 protest, the police used special means without taking into account the principle of necessity, which also reoccurred the next day.

According to HRC monitors, the assembly held on March 8 was peaceful in nature and the participants of the demonstration had no violent intention. Nevertheless, the police used special means to disperse the demonstrators: they used pepper spray and water cannon - both on March 8, and after midnight - on March 9. A case was documented when a policeman sprayed pepper spray directly in the eyes of one of the protest participants.⁷ Furthermore, in the footage spread through the media,⁸ it was visible that the police were mixing pepper spray with water cannon, which goes against international standards⁹ and creates a risk of causing intentional harm to people.¹⁰

In addition, according to the HRC Monitors, a number of cases of violation of national legislation were observed during the use of special means by police officers.

In particular, the Law of Georgia “On Police” gives the police officers the authority to use special means to protect public safety and order. The specific guidelines for their use are determined by a subordinate normative act.¹¹ According to the relevant order of the Minister of Internal Affairs of Georgia, before using special means, the authorized person of the police is obliged to warn the participants of the assembly/demonstration in advance, to give them a reasonable time (at least 30 minutes) to comply with the lawful order.¹² Such a warning shall be clear and audible. It may be necessary to announce the warning from different locations so that all participants in the assembly can hear it, and before using force, the police shall give them adequate time to take the second warning into account.¹³

In addition, the authorized police officer must use special means in compliance with the principle of proportionality, only in cases of immediate necessity and in the minimum amount necessary for

⁷ A peaceful civilian is intentionally sprayed with pepper spray in the face by a member of the riot police, Formula, available at: <https://rb.gy/9i628> [17.09.2023].

⁸ Mtavari Arkhi, *Pepper spray and water cannon - special forces started to break up the protest*, available at: <https://rb.gy/zezc9> [16.10.2023]; See also: Radio Liberty, *GYLA: The simultaneous use of tear gas and water canon is against the international standard*, 9.03.2023, available at: <https://rb.gy/nnooc> [16.10.2023].

⁹ See For example: Resource Book on the Use of Force and Firearms in Law Enforcement, UN Office on Drugs and Crime (UNODC) & UN Office of the High Commissioner for Human Rights (UN OHCHR), (New York: UNODC & UN OHCHR, 2017), 90, available at: <https://rb.gy/4th4x> [9/17/2023].

¹⁰ Ibid.

¹¹ *On the approval of the guidelines for the behavior of employees of the Ministry of Internal Affairs of Georgia during gatherings and demonstrations*. - Amendments to the order No. 1002 of the Minister of Internal Affairs of Georgia on December 30, 2015.

¹² Ibid, Article 7.

¹³ OSCE Office for Democratic Institutions and Human Rights, *Human Rights Handbook on Policing Assemblies*, Warsaw, 2016, p. 103, available at: <https://rb.gy/m5t9g> [9/17/2023].



specific circumstances.¹⁴ According to the Law of Georgia on Police¹⁵ “water cannons, armored car, and other special transportation means are used to suppress mass violations of the legal order, to repel a group attack 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; to detain an armed criminal”. According to the monitoring results, none of the above-mentioned grounds were detected during the March 7 protest. Thus, the police used a water cannon without a legal basis to disperse the participants in a peaceful assembly.

According to the standards set forth by the Organization for Security and Cooperation in Europe (hereinafter, “OSCE”), it is inadmissible to use water cannons to break up a peaceful demonstration.¹⁶ Even if there is a legitimate reason to disperse an assembly, it is necessary to give a proper warning before using special means.¹⁷ As for pepper spray - according to the OSCE standards, its use is allowed only to repel individual violent protesters.¹⁸ It is prohibited to use pepper spray from a distance of less than 1 meter (optimum distance is 1.25 to 2 meters), as well as against the participant of the rally who does not behave aggressively.¹⁹ Indiscriminate use of force by the police against everyone can lead to an escalation of the conflict, which was the case during the March 8 protest.²⁰

At the gatherings on March 8-9, the actions of some participants exceeded the scope of the right to peaceful assembly and demonstration.²¹ According to the OSCE guidelines, even if inappropriate behavior or isolated cases of violence by an individual participant or participants of the demonstration are detected at the rally, a peaceful demonstration does not automatically acquire the nature of a violent assembly, which in turn would be considered a legal basis for restricting the freedom of assembly.²² In such cases, the police shall act in a differentiated manner towards those citizens who behave violently. Indiscriminate use of force by the police against everyone can lead to an escalation of the conflict, which was the case during the March 8 protest.²³

¹⁴ Ibid, Article 4, part 4.

¹⁵ Article 33 (3) (g) of the Law of Georgia “On Police”.

¹⁶ OSCE Office for Democratic Institutions and Human Rights, *Guide on Law Enforcement Equipment, Most Commonly Used in the Policing of Assemblies*, 2021, p. 81.

¹⁷ Ibid.

¹⁸ OSCE Office for Democratic Institutions and Human Rights, *Human Rights Handbook on Policing Assemblies*, Warsaw, 2016, p. 79.

¹⁹ Resource Book on the Use of Force and Firearms in Law Enforcement, UN Office on Drugs and Crime (UNODC) & UN Office of the High Commissioner for Human Rights (UN OHCHR), (New York: UNODC & UN OHCHR, 2017), 87, available at: <https://rb.gy/4th4x> [9/17/2023].

²⁰ Ibid.

²¹ Who is Lazare Grigoriadis - arrested on charges of shooting "Molotov cocktail", Radio Liberty, 30 March 2023, available at: <https://rb.gy/ohshs> [9/19/2023].

²² Human Rights Handbook on Policing Assemblies, OSCE/ODIHR, 2016, p. 103, available at: <https://rb.gy/m5t9g> [9/17/2023].

²³ Ibid.



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According to the HRC's assessment, during the demonstrations of March 7 and 8-9, cases of violation of national legislation and international standards by law enforcement officers were identified. Namely: the police acted contrary to the order of the Minister of Internal Affairs on the instructions for the use of special means, used the special means - water cannon and pepper gas - without prior warning, without the existence of legitimate grounds, and in violation of the principle of using proportionate force. In conclusion, according to the HRC monitors, the actions of the police during the March 7 and 8-9 demonstrations - dispersing the peaceful demonstration, particularly through the use of special means - amounts to of a breach of the freedom of assembly, which is guaranteed by the Constitution of Georgia, as well as international treaties ratified by Georgia.

Taking into account the aforesaid, we recommend

The Special Investigation Service:

- To ensure timely, comprehensive, and impartial investigation of cases related to possible abuse of authority by law enforcement officers.

The Office of the General Prosecutor of Georgia:

- To thoroughly investigate the legality of the order regarding the use of special means as well as the scope of the use of such means.

The Ministry of Internal Affairs:

- to respect the freedom of assembly enshrined in the Constitution of Georgia and not to interfere unjustifiably in the protected scope of this right;
- before using special means, in accordance with the requirements of the legislation of Georgia, the authorized representatives of the Ministry of Internal Affairs shall issue a preliminary warning and give the participants of the rally a reasonable time to comply and disperse;
- to ensure the use of special means in accordance with the principle of proportional force, only in cases of extreme necessity;
- to follow the requirements of the national legislation and international standards when dispersing public assemblies through the use of special means;
- to train the employees of the Ministry regarding the use of special means and to ensure that such means are used in accordance with the guidelines approved by the Minister of Internal Affairs



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