

AMNESTY INTERNATIONAL PUBLIC STATEMENT

4 June 2024 EUR 56/8104/2024

GEORGIA: RELEASE PROTESTERS, INVESTIGATE ALLEGATIONS OF ILL-TREATMENT

Amnesty International calls on the Georgian authorities to drop the criminal charges carrying a disproportionate custodial sentence against protesters Omar Okribashvili and Saba Meparishvili, release them and conduct a prompt, impartial and effective investigation into their allegations of ill-treatment.

The Georgian authorities should refrain from misusing the criminal system, including arbitrary pretrial detention of protesters and ensure that criminal charges, particularly those resulting in deprivation of liberty, are not used as retaliatory measures or to unduly restrict the rights to freedom of expression and peaceful assembly. They must also fully respect the rights to freedom of expression and assembly and effectively investigate all allegations of ill-treatment during or after protests or in detention.

ARREST AND ILL-TREATMENT OF PROTESTORS IN DETENTION

Omar Okribashvili and Saba Meparishvili were detained in connection with the 14 May protests against the controversial “foreign influence” bill. Both were accused of damaging temporary police metal barriers that had been installed by police outside the Georgian Parliament during the protest and were remanded to pretrial detention. The detained protesters told their lawyer that they started banging on the metal barrier in protest, after seeing several police officers arrest a young protester/child and beating and dragging him behind the barrier. Among the over a dozen protesters that were reported arrested on the day, several sustained severe injuries.

The lawyer for the detained protesters, told Amnesty International that Omar Okribashvili and Saba Meparishvili were subjected to beatings and insults during their arrest and detention and were prevented from accessing a lawyer for several hours as they were detained and questioned.¹

Saba Meparishvili was apprehended at the protest on 14 May. He told his lawyer that he was dragged inside the police cordon behind the barrier and beaten and kicked in the face and body. The police continued beating him while transporting him to the police detention centre and during questioning, where one of the officers allegedly threatened him with more violence if he dared to make a complaint. According to his lawyer, Saba Meparishvili had clearly visible injuries on his face during the pretrial hearing the following day, and his injuries on face and legs were also noted by the prison doctor in his case file. Following his remand hearing on 14 May, he was transferred to the Gldani penitentiary facility, where he reported being subjected to constant psychological abuse, insults, and threats by other inmates for taking part in the protests. He told his lawyer and Georgia’s Public Defender (ombudsperson) that he started having thoughts of self-harm and suicide because of the ongoing harassment.

Omar Okribashvili was taken to the police department from his home also on 14 May following the protests, after the police searched his house. Police officers allegedly threatened him and his family members and forced them to sign a document renouncing their rights to a lawyer during the search and detention. Their lawyer told Amnesty International that police also forcibly took Omar Okribashvili’s father to the police department and made him sign a testimonial against his son using threats and without explaining him his rights. Following the remand hearing, Omar Okribashvili was placed in a cell with other inmates who were former employees of the Ministry of Interior who made constant insults and threats against him for his participation in the protests. He described his conditions and treatment in prison to his lawyer as “hellish.”

On 28 May, after meeting with both men following the complaints, the Georgian Public Defender reported that the harassment and threats from other inmates in the prison cell had been resolved.²

¹ Interview by video call with Ana Gakhikidze, Democratic Research Institute (DRI) Lawyer, on 29 May 2024.

² Public Defender of Georgia, Public Defender’s Representatives Visit Two Detained Protesters in Penitentiary Establishment No. 8 (ombudsman.ge) 29 May 2024.

CRIMINAL PROSECUTION

Omar Okribashvili and Saba Meparishvili continue to be remanded in custody on charges of “damage or destruction of someone else’s property which caused significant damage by a group” (Article 187(2)(c) of the Criminal Code) at the time of writing. They are accused of damaging a temporary metal barrier installed by the police in front of the Parliament and causing the state 400 GEL (approximately US\$ 140) in damage. If convicted, they face imprisonment from three to six years.³

According to the lawyer, the judge at the Tbilisi City Court imposed pretrial detention without considering any alternative measures. In justifying the imposition of pretrial detention, the court referred to ongoing protests as a risk factor, thus linking their detention with further undue restrictions of their right to protest.

The article of the Criminal Code under which Omar Okribashvili and Saba Meparishvili have been charged has been previously criticized by Georgian human rights lawyers as disproportionate and often misused to punish people for protesting, in violation of their human rights to freedom of expression and peaceful assembly and dignity and equality, which are guaranteed by the Georgian Constitution and by international human rights law.⁴ The norm under the article is being challenged at the Georgian Constitutional court as unconstitutional, amounting to cruel and inhumane punishment and violation as it prevents the court from considering any alternative or proportionate punishment other than incarceration from 3 to 6 years for a destruction of property exceeding 150 GEL (approximately US\$ 50). It also prevents considerations of social or individual factors in determining fair and proportionate punishment such as in the case of public protests when the destruction of the property may occur as an act of expressing a protest.⁵

RELEVANT INTERNATIONAL HUMAN RIGHTS LAW

International human rights law and standards, including the International Covenant on Civil and Political Rights and the European Convention of Human Rights, to which Georgia is a state party, require that any restriction to the right of peaceful assembly is prescribed by law, pursues one of the limited legitimate aims and is necessary and proportionate to achieve such legitimate aim.⁶ To comply with the principle of legality, any such law, must not be arbitrary or unreasonable and it must be foreseeable as to its effects (which includes not conferring unfettered discretion on those charged with their enforcement) and be sufficiently precise to allow anyone to decide how to regulate their conduct. This means that any law that provides restrictions based on vague and overly broad categories or that improperly identifies risks or harms would violate the requirement of legality. As to the legitimate grounds for restrictions of the right of peaceful assembly, international human rights norms provide an exhaustive list, which includes instances where actions fall under the definition of violence. As clarified by the UN Human Rights Committee violence in the context of a protest ‘typically entails the use by participants of physical force against others that is likely to result in injury or death, or serious damage to property. Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to “violence”’.⁷

In this case, prosecution under criminal charges that may entail a conviction of up to six years’ imprisonment for alleged destruction of temporary installations with little value constitutes an unnecessary and disproportionate restriction on the human rights of Omar Okribashvili and Saba Meparishvili to peaceful assembly which has led to numerous violations of these human rights, including arbitrary detention. It also appears to be retaliatory and in line with the goal of creating a chilling effect on the exercise of other protesters’ human rights. Omar Okribashvili and Saba Meparishvili should be immediately released.

International human rights law prohibits torture and other ill-treatment under any circumstances and obliges all states to conduct a prompt and impartial investigation into all such allegations. States are responsible for ensuring the safety and dignity of every detained person, including from abuse by other prisoners. Furthermore, no one may be compelled to testify against oneself or their family members. Any incriminating evidence obtained under torture or other ill-treatment

3 Ministry of Internal Affairs of Georgia, Facebook video posted on 16 May 2024, <https://fb.watch/spuVEkrhjp>

4 A local human rights watchdog, the Democracy Research Institute, filed a constitutional lawsuit in March 2024, seeking to declare this norm unconstitutional: <https://www.democracyresearch.org/eng/1471/>

5 Constitutional court of Georgia. Constitutional Complaint N1814. Akaki Chikobava and Giorgi Khasaia v. the Parliament of Georgia. 23 April 2024; <https://constcourt.ge/ka/judicial-acts?legal=16418>

6 Article 19.3 ICCPR on the right to freedom of expression and article 21 ICCPR for the right of peaceful assembly.

7 UN Human Rights Committee (HRC), General Comment 37 on the right of peaceful assembly (Art. 21), 17 September 2020, UN Doc CCPR/C/GC/37, <https://digitallibrary.un.org/record/3884725?ln=en>, para. 15.

should not be invoked in proceedings. Being questioned without a lawyer or being forced to “waive” the right to a lawyer are also clear violations of the right to a fair trial.