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Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai

Addendum

Mission to Georgia: comments by the State on the report of the Special Rapporteur*

* Reproduced as received.

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The following document represents the comments of the Government of Georgia (hereinafter the Government or the GoG) in relation to the Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association on his mission to Georgia.

The Government of Georgia notes that the findings in some parts of the Report, especially paragraphs 32-46 are solely based on December 2011 amendments to Organic Law of Georgia on Political Union of Citizens. The Special Rapporteur has been informed that in May 2012 further amendments were introduced to the said law, amending and clarifying the provisions addressed by the Report. The above amendments were also made available to the Secretariat and the Special Rapporteur. Nevertheless, the Report does not reflect steps that were taken by the GoG following the visit of the Special Rapporteur. Therefore, the GoG clarifies that certain passages of the Report, together with parts of Conclusions (paragraph 84) and Recommendations (paragraph 90 (a&b)) may no longer be relevant in the light of May 2012 amendments to Organic Law of Georgia on Political Union of Citizens.

The following is the position of the GoG with respect to the various findings of the Report:

1. In paragraph 3 of the summary as well as paragraph 26, the Report notes the existence of “a climate of fear and intimidation” and “climate of distrust”. The Georgian Government considers that such strong political wording in the Report might lead to incorrect assessments with regard to state of the right to freedom of peaceful assembly and of association in Georgia. Both legislative and executive powers have been actively engaged with political parties, civil society and international experts, and implemented a series of measures to enhance the Georgian political party operation and financing system to bring them closer to international standards. While the reforms included a substantial increase in public funding for political parties, they also brought about the greater transparency and accountability of party finances to ensure a level playing field and a competitive environment for political parties in line with earlier recommendations by the Group of States against Corruption (GRECO), an anti-corruption body of the Council of Europe (*see infra paragraph 12*).

2. It is Georgia’s understanding that the reference to the occupied regions of Abkhazia, Georgia and the Tskhinvali Region/South Ossetia, Georgia formulated in the paragraph 2 of the Report as “breakaway regions of Abkhazia and South Ossetia” is made with no prejudice to the respect of Georgia’s sovereignty and territorial integrity within its internationally recognized borders.

3. In paragraphs 8 and 63 of the Report, while indicating the importance of protection and promotion the right to freedom of assembly and association, the reference is made to the way that the current Government was formed. Georgia underscores the role and importance of the Rose Revolution and its peaceful nature that lead to the profound and remarkable democratic transformation and enhancement of human rights and freedoms. Together with this, Georgia emphasizes that strengthening of the rule of law has been one of the biggest achievements of the present government. Therefore, while being strongly committed to ensuring the right to freedom of assembly and association, the GoG strongly believes that while effectively enjoying their rights and freedoms, individuals have to observe all relevant laws and regulations.

4. Paragraphs 8 and 24 point on the amendments to the Organic Law of Georgia on Political Union of Citizens that were enacted in December 2011. In light of this the GoG emphasizes that in May 2012, as a result of close consultations between the Parliament, the Chamber of Control of Georgia (hereinafter – CCG), non-governmental organizations and international organizations, the Parliament of Georgia adopted further amendments, that aim at clarifying and crystallizing the legal provisions related to the political unions of

citizens. Therefore, paragraph 8 as well as subsequent paragraphs that make a reference to December 2011 amendments and assess the environment from the perspective of these amendments should be reviewed and re-assessed in light of the ultimate (May 2012) amendments enacted to the Organic Law of Georgia on Political Union of Citizens.

5. In paragraph 12, the Report describes the set of constitutional reforms that was adopted by the Parliament in 2010. In this description, the Report makes a suggestion that the law may allow a president to be appointed as a prime minister. Government considers that this hypothetical assessment cannot be used as a tool for assessment of how these constitutional reforms relates to the right to freedom of assembly and association.

6. In view of the GoG, the phrases “uneven political playing field” (paragraph 26 & heading A) and “arbitrary restrictions” (subheading 1), cannot be considered as reflecting careful assessment of legal and practical framework, since existing political environment has been assessed exclusively in light of December 2011 amendments to the Organic Law of Georgia on Political Unions of Citizens, without taking a due note of other legislative acts that establish and safeguard political activities in the country. Simultaneously, the May 2012 amendments that further clarify the Law are not taken into consideration. Therefore, these assessments should be reviewed in light of the May 2012 amendments to the Organic Law of Georgia on Political Union of Citizens.

7. In reference to the phrase “give them a fair chance to change their leaders as they deem appropriate” in paragraph 28, the GoG hereby clarifies that its understanding of obligations stemming from the International Covenant on Civil and Political Rights is that its Article 25 is to safeguard and guarantee participation in public affairs and right to vote, in the frameworks of international standards and relevant domestic legal framework.

In paragraphs 31-33 the Report notes that amendments to the Organic Law of Georgia on Political Unions and in particular Art. 26^1 prescribe restrictions that “can facilitate abusive interpretations” and deter activities of NGOs. The GoG highlights that on the basis of May 2012 amendments, the article has been modified.

In particular, the amendments have, *inter alia*:

a. reduced fines for violations;

b. increased the role of the courts, including by granting them the responsibility of making fining decisions;

c. provided further specificity on what entities fall under the restrictions of the law. The law provides clear, transparent and prescribed criteria for entities in respect of which the CCG can exercise its monitoring functions.[1] Only entities, commercial and non-commercial alike, who have declared electoral goals and expend financial resources in the achievement of these goals fall under the purview of the law. Organizations that support capacity-building of political parties and whose activities do not involve campaigning for or against any political party are not regulated by the law. The purview of the law in its current formulation, therefore, is rather narrow and clearly defined. The notion of direct or indirect relations of a citizen/entity with a political subject, which under the past formulation could have resulted in the citizen/entity falling under the monitoring function of the CCG, has been completely removed from the law to eliminate any ambiguity in its application. The decision of the CCG on whether or not a particular entity falls under its monitoring function can, furthermore, be appealed in court.

[1] See article 26^1 of the Law of Georgia on Political Unions of Citizens

Based on these novelties, the GoG considers that assessments, conclusions and recommendations provided in the Report have to be reviewed in light of May 2012 amendments to the Law.

8. As per paragraph 33, the GoG considers that based on the novelties described in the above paragraph 8, regarding further clarification of the scope of Art. 26[1] of the Organic Law of Georgia on Political Unions of Citizens, the current reading of the article cannot be understood as deterring work of those non-governmental organizations that do not have declared electoral goals and expend financial resources in the achievement of those goals.

9. First sentence of paragraph 34 should be revised in light of May 2012 amendments to Art. 26[1] of the Organic Law of Georgia on Political Unions of Citizens. In particular, pursuant to the new wording of the article, restrictions established by the law cover only person who has declared his/her political aims and use all financial and material resources to reach the goal.

As for the issue related to the spending and expenses of the political parties, the GoG elucidates that Article 25[1] (1) provides that the total amount of expenditures by political party/electoral subject shall not exceed 0.2 % of Georgia's GDP of the previous year. Indicated amount includes expenditures of party/electoral subject and expenditures made in favor of it by other person, that is defined by the CCG and regarding which relevant party/electoral subject is notified. The total number of annual cap of independent majoritarian candidate shall be determined by following rules: the cap of expenditures permittied for a party for election campaign (0.2 % of GDP of the previous year) shall be divided into the total number of voters in the country, the recived number shall be multiplied on number of voters of the election district in question.[2]

Pursuant to Article 27 of the Law the total amount donated individually cannot exceed 60,000 GEL.

10. With regard to paragraph 36, the Government of Georgia considers that it should be viewed in light of May 2012 amendment of Article 26[1] (3) of the Law on Political Union of Citizens. The new formulation of the draft provision stands as follows: A physical person, who has declared electoral goals and uses related resources for these goals, is obliged to establish a special foundation. Restrictions for an independent candidate, defined in the Election Code shall be applicable to this person.

In relation to paragraph 37, the GoG duly notes that the amendments introduced into the Law on Political Unions of Citizens in December 2011 were based on recommendations of the Group of States against Corruption (GRECO), an anti-corruption body of the Council of Europe. The aim of the amended articles was the enhancement of political party funding system, prevention of political corruption, insurance of high level of transparency and accountability and support of political competition through bringing Organic Law on Political Unions of Citizens in compliance with international standards, implementing recommendations of Council of Europe[3] and GRECO 3rd Evaluation Report (Theme II)[4] (donations by legal entities – article 5, Donations to entities connected with a political party – Article 6).

More specifically, Council of Europe as well as the Venice Commission establish regulations regarding the limitation of the donation to the political parties. The same regulation is ensured in the recommendation of Council of Europe which provides that

2 Article 25[1] (1) of the Law on Political Unions of Citizens.
3 Council of Europe Committee of Minister Recommendation (2003)4
4 Evaluation Report on Georgia on Transparency of party funding (Theme II), Adopted by GRECO at its 51st Plenary Meeting (Strasbourg, 23-27 May 2011).

States should take all necessary measures to limit, prohibit or otherwise strictly regulate donations from legal entities which provide goods or services for any public administration.[5] Furthermore, in the 3rd evaluation Report, GRECO recommended that it was necessary to regulate issues related to membership fee payment and to establish maximum limit of donations.[6]

11. In paragraphs 40 and 42 respectively, the Report notes that the CCG is a “de facto organ of the Executive” and “was presented as an independent institution”. The GoG clarifies that the CCG is an independent external supreme audit body and its role as such is guaranteed by the Constitution of Georgia. The CCG carries out financial compliance and performance audits of all three levels of government: central, autonomous and local. It is, therefore, an institution of its own kind, which is neither part of the legislative, nor the executive branches of the government. Along with the Constitution, the Law of Georgia on the Chamber of Control lays down its functional, organizational and financial independence. The legal mission statement provides for the CCG’s commitment to the improvement of public financial management by promoting accountability and the efficient and effective use of public resources, including those of political parties.

12. Paragraph 40 of the Report underscores that the CCG has “extraordinary discretionary authority” and can “ensure transparency of funding on any citizen or legal person”. It should be noted that the amendments introduced in May 2012 to the law on Political Union of Citizens provide further specificity on what entities fall under the restrictions of the law. (*See supra paragraph 11.*). The law provides clear, transparent and prescribed criteria for entities in respect of which the CCG can exercise its monitoring functions.

Moreover the amendments increase the role of courts, including by granting them the power of making final decisions. As per the decision of the CCG on whether or not a particular entity falls under its monitoring function, this decision can, furthermore, be appealed in courts.

13. As per issue of standardized questionnaires used during the inquiry procedure, raised in paragraph 41, it should be noted that these interviews were conducted by the CCG in the month of March 2012 where individuals served as witnesses. Under Georgian legislation, when individuals are invited to serve as witnesses in the study of a potential breach, they enjoy all relevant rights and freedoms as provided for in the legislation of Georgia and international human rights instruments to which Georgia is a party to, including the right to counsel. As to interview questionnaire, they are prepared in advance according to an overall standard set by the CCG and are also tailored to the specific issue under examination. At the same time, an interviewer has discretion, to ask any additional question based on received answers.

As per contention that during interviews individuals were asked about their political activities, the Government notes that all interviewers are directly instructed under internal regulations to ask only the questions related to the issue under examination and not to inquire about unrelated political affiliation or activity of the witness. Continuous training and skills-building is provided to the staff of the CCG, to ensure that the highest quality of interviewing is carried out when investigatory activity is instigated. To further streamline the interviewing procedure, some innovations have been adopted by the CCG, including audio-video monitoring of the interviews, as well as the introduction of consultants, who

[5] Council of Europe Committee of Minister Recommendation (2003)4, Article 5(b).
[6] Evaluation Report on Georgia on Transparency of party funding, Greco Eval III Rep (2010) 12E, para. 30.

serve all interviewees at their arrival to provide explanations on the interviewing procedure, legal basis, their rights, etc.

14. With regard to the adoption of guidelines, noted in paragraph 44, it should be underscored that with an aim of further enhancing the transparency of its activities on party finance monitoring, since March 2012, the CCG has been actively engaged with civil society in drafting the Guidelines' document. The document, to be finalized in June 2012, provides detailed information on the mandate of the CCG and the procedure through which this mandate is operationalized, including the conduct of investigatory activity. The Guidelines state that inquiry procedure can be launched only if (a) a submitted report indicates a potential breach of law, for example by showing substantial inconsistency between income and expenditures; (b) an allegation is made to the CCG on the breach of law or the CCG becomes aware of a potential breach through another source, such submissions of state organs as the National Bank or the Customs Office or through the media report; and (c) information on donations, which all political subjects are required to report to the CCG within five days, shows inconsistencies. To ensure that investigatory activity is an option of the last resort, the CCG initiates inquiry only *after* ascertaining reasonable grounds for suspecting a potential breach.

15. With regard to the phrase: "… the need to seriously consider revising the Labour Code", noted in paragraph 52, it should be underlined that "Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), General Report and observations concerning particular countries, International Labour Conference, 99th Session" (which is mentioned in relevant footnote) does not envisage such an imperative wording. Since the ILO Committee of Experts represents the specialized body in the area of labour rights, Georgia views this paragraph, together with the recommendations put forward by the Special Rapporteur in light of concrete recommendations given by the ILO.

16. With regard to the operational environment for the labour unions assessed in paragraph 54, the GoG deems it necessary to underscore that according to the most recent data of the ILO,[7] the percentage of labor union members among wage and salaried earners (Union Density Indicator) in Georgia amounted to 47.7% in 2007, which is the highest union density among all lower middle-income countries.[8]

Moreover, under the Georgian legislation, procedures for establishment of a labor union as an association are simple and straightforward. Establishment of a labor union requires only payment of the registration fee equivalent to 60 USD. According to the data of the National Agency of Public Registry of Georgia, after the adoption of the new Labor Code in 2006 36 new labor unions have registered. Namely:

- 17 labor unions in the industry and service sector;
- 10 labor unions in the education sector;
- 5 labor unions in the culture and sport sector;
- 2 labor unions with cross-sector coverage;
- 2 labor unions in the public sector.

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[7] The ILO. "Trade Union Density and Collective Bargaining Coverage, International Statistical inquiry 2008-09".ILO's Industrial and Employment Relations Department (DIALOGUE) 2010

[8] Georgia's union density out-performs 19 countries in Europe including Austria, the Czech Republic, France, Germany, Latvia, Lithuania, and Hungary. It is also higher than that in the United States, Canada, Mexico, and Chile;

At the same time, in order to achieve a higher level of protection for the freedom of association, the Government of Georgia submitted to the Parliament of Georgia the draft amendment to the Law on Trade Unions in order to lower minimum trade union membership requirement as was recommended by the ILO CEACR[9] in May 2012. The significantly reduced minimum labor union membership will further streamline procedures needed for creating labor unions.

17. As per paragraph 55 the GoG notes that there is no "an apparent inconsistency" between Constitution and Labour Code regarding the right to join and form labor unions and the right to strike as under the Georgian legislation, procedures for establishment of a labor union as an association are simple and straightforward. Establishment of a trade union requires **only** payment of the registration fee equivalent to 60 USD.

Moreover, in May, 2012 the GoG submitted to the Parliament of Georgia legislative amendments to the:

- Labour Code in order to remove 90-day limitation on strike.
- Law on Trade Unions in order to lower the minimum membership requirement need for establishment of a labor union from 100 to 50.

The goal of the above-mentioned legislative amendments is to further streamline right to strike and right to form a labor union. The both of legislative amendments were elaborated based on the recommendations of the ILO.

18. With regard the first sentence of the paragraph 56, the GoG notes that it is working closely with its social partners within the TSPC for further enhancement of conciliation and mediation mechanisms with the assistance of the ILO. The main aim of the ILO assistance is to facilitate the creation of a mediation unit in order to further facilitate tripartite cooperation, studying, and analysis of alleged anti-union dismissals. The last three sessions of the TSPC were dedicated to the discussion on the conciliation and mediation mechanisms. Currently, the tripartite partners are elaborating their proposals regarding functions, competencies, type of structure, etc of the conciliation and mediation facility.

With regard to paragraph 57, the GoG finds it necessary to note that since 2005, public schools became autonomous entities - Legal Entity of Public Law (LEPL) – in effect meaning that each public school is an organization that is legally separated from the Government of Georgia and the Ministry of Education and Science of Georgia (hereinafter MoES) and independently carries out its activities. According to Article 2(1) of the Law of Georgia on the Legal Entity of Public Law, "LEPL is an organization independent and separated from legislative and state governmental bodies". Based on the above, MoES does not employ a teacher. Particular schools, represented by the principle contract teachers themselves. According to the Article 43(1)(f) of the Law of Georgia on General Education, "… a public school principal is responsible to sign and execute the employment agreement with teachers and all other school personnel".

The several complaints were submitted to the MoES regarding anti-union dismissals based on political views. The internal audit of the MoES studied all cases and no allegations were found. Teachers were dismissed based on disciplinary offences and not for their political views. Moreover, a case of allegations of anti-union dismissals of teachers based on their political views has never been brought for discussion at the TSPC by the GTUC.

[9] Observation, CEACR 2009/80th Session: "…The Committee therefore once again requests the Government to provide information with its next report on the measures taken or envisaged to amend section 2(9) of the Law on trade unions so as to lower the minimum trade union membership requirement…"

19. With regard to paragraphs 58 and 59, and the third sentence of the paragraph 60 the following should be taken into account: Georgian legislation prohibits discrimination in labor relations based on membership in any type of association including labor unions. This prohibition is enshrined in all legal acts that regulate labor relations (the Georgian supreme law - the Constitution of Georgia, the Labor Code of Georgia, the Law on Labor Unions of Georgia, and the Criminal Code of Georgia). It is notable that termination of employment and recruitment processes are part of labor relations. Accordingly, prohibition of discrimination in labor relations based on membership in trade unions is applicable both in recruitment and employment termination processes. There are no reported cases when a person was not recruited based on his/her membership in trade union. Furthermore, an employer's request to disclose membership in any association including trade unions in the recruitment process is considered illegal and punishable.

As for the concern related to the Article 37(d) of the Labor Code of Georgia, the Labor Code does not prescribe an employer with the right to dismiss a worker without any reason. According to the Labor Code of Georgia, the ground for suspending labor relations can be termination of the agreement. Termination of the labor agreement is possible on the initiative of one of the parties of the agreement. It should be emphasized, that if a dismissed worker appeals the dismissal in court, the employer is obliged to provide reasoning of dismissal during the court hearings. According to the latest ruling of the Supreme Court (Supreme Court, Case No. 343-327-2011, December 1, 2011), in the course of the termination of the labor contract, the fundamental human rights, also prohibition of discrimination envisaged by the Labor Code should be protected and ensured (Article 2, Paragraphs 3 and 6 of the Labor Code). Dismissal of a worker challenged in court, shall be meaningfully investigated and determined whether the dismissal was based on discriminating grounds. In such case burden of proof lies on an employer to establish that no fact of discrimination has occurred.

20. With regard to right to spontaneous manifestations provided in paragraph 73 the GoG clarifies that pursuant to Georgian legislation notification of holding of assemblies and manifestations is required only in case if a public assembly or manifestation is held on a public thoroughfare or interrupts the traffic movement.[10] In other circumstances, participants of assembly and manifestation are not required to get any prior notification. Citizens have the right to exercise their right to freedom of assembly without any prior notification in any place except of places mentioned in article 5 of the Law (if assembly and manifestation interrupts traffic movement). Furthermore, spontaneous manifestation (manifestation without any prior notification) is allowed if it does not aim to block the transport movement on the roads.

21. In paragraph 65 the Report indicates that the Special Rapporteur validates the claims that restrictions had been applied with regard to peaceful assemblies. The Report, however does not indicate any particular case or assessment of such case to corroborate that validation.

At the same time, in April, 2011, the Constitutional Court of Georgia published its judgment[11] and declared some of restrictive provisions of the Law on Assembly and Manifestation unconstitutional. Based on this the Parliament of Georgia has adopted the amendment and addition to the Law on Assembly and Manifestation in July 2011, thus bringing the legal framework in line with international standards and established practice.

[10] Article 5(1) of the Law on Assembly and Manifestation.

[11] The Decision of the Constitutional court of Georgia is available on the following link: http://www.constcourt.ge/index.php?lang_id=GEO&sec_id=22&id=640&action=show.

As per limitation of right of members of the armed forces to participate in assemblies and manifestations, referred in paragraph 72, it should be underscored that the right to freedom of assembly and manifestation is not the absolute right and the Government is authorized to establish certain restrictions in accordance with state security. The Constitution of Georgia as well as the Law on Assembly and Manifestation excludes the members of the armed forces, employees of the armed forces, armed law enforcement bodies, paramilitary and special facilities (Ministry of Internal Affairs) from participation in the manifestation, based on the principle of public safety and state security.

As to the term "entrance", Article 9 of the Law on Assembly and Manifestation maintains the blanket ban on any assembly within 20 meters of the entrance of the following buildings: Prosecutors' Office, temporary detention buildings/facilities, all police stations, railways, airports and ports.[12] The main aim of such restriction is to avoid the interruption of the functioning of public facilities.

In relation to paragraph 74 of the report, the GoG clarifies that Article 11[1] of the Law on Assembly and Manifestation prohibits blocking the transport movement unless, it is necessary due to the large number of people, and the manifestation can be held without blocking the traffic movement.

As for Article 11[2] of the same law, which provides the restriction for blocking the traffic movement during the assembly and/or manifestation, the GoG notes that the main purpose for such restriction is to protect the balance between interests of the local inhabitants and the participants of assembly/manifestation. If the manifestation interrupts the rights of the citizens for a short period of time, the organizers are not offered reasonable alternatives. The local self-government agency is responsible to keep the balance between interests of citizens residing/functioning in the vicinity of the assembly and members of manifestation/protesters.

In paragraphs 80 and 77, Special Rapporteur expresses concern regarding "deliberate recurrence to administrative detention ... up to 90 days", especially in relation to May 26 events and indicates to the "serious lack of judicial guarantees". In this regard, the GoG elucidates that on May 26, around 150 protestors were arrested and brought to courts. 75 arrested protesters were fined and 99 were detained up to 2 months for hooliganism and resistance to the police in line with the Code on Administrative Offences. Out of total number of detained persons, only 5 individuals were administratively arrested for 90 days. It shall be stressed, that all of the detainees had been promptly brought before a judge within 12 hours as required by legislation. A judge examined each and every case and decided on the measure of constraint accordingly. As indicated in registration journal run by every temporary detention isolator approximately 97% of the arrested detainees have been visited by legal attorneys speedily.

Moreover, the GoG would like to underscore that Criminal Justice Reform Coordination Council (CJR Council) has initiated review of the Code on Administrative Offences. Namely, the Parliament has prepared a new draft Code that the CJR Council has revised with a team of experts, including representatives of national and international non-governmental organizations. In November 2011, the CJR Council hosted a meeting with NGO representatives and human rights organizations in order to discuss their recommendations and comments. In December 2011, a team of experts revised the draft Code in two directions in line with received recommendation: improving procedural/fundamental safeguards for persons from the moment of arrest till the end of court-proceedings (including *inter alia* evidentiary standards, access to a lawyer, adequate

[12] Article 9 (1) of the Law on Assembly and Manifestation

timing for preparing defense and appeal, etc) and improving treatment/living conditions of administrative detainees in temporary detention isolators (to afford them similar rights to those detained in criminal proceedings). The revised draft Code has been sent for additional expertise to the Council of Europe (CoE). CJR Council would wait for CoE expertise before moving forward with the discussion of the draft Code in the Parliament.

In addition, the Order N1074 of the Minister of Internal Affairs of December 28, 2011, amended the Statute on Temporary Detention Isolators Regarding the Additional Rules and Conditions of Administrative Detention; amendment already (since January 1, 2012) provides the same safeguards in detention centers as it is prescribed in the draft Code.[13]

Based on the above-mentioned, the GoG notes that Georgian legislation prescribes for legal safeguards in case of administrative detention, violation of which entails responsibility. At the same time, administrative courts exercise judicial control over cases of administrative violations. Therefore, employing phrase “lack of judicial guarantees” in paragraph 80 does not provide accurate description of the legal framework.

Concerning the suspicion raised in paragraph 78 regarding the intention of the Georgian police with regard to May 26, the GoG, relying on internal and international independent surveys, further notes that the only policing objective of the May 26 events was to move the protest from the Avenue in order to allow final preparations for the Independence Parade to be made.

On May 26 when the time for holding the assembly expired and it became illegal, the protesters were given a notification and asked to leave the place peacefully; the police offer on alternative protest venue clearly demonstrated the police commitment to maintaining the rights of the protestors and, based on the mentioned surveys, before actual dispersal everything was done to prevent clashes between the police forces and protestors. Particularly, it should be taken into consideration that the police did not react on the protestors’ provocations hitting sticks on the shields of the police officers, the police continuously asked them to leave the Avenue, and what’s more important, gave specific legal notice of intention to disperse and gave additional verbal warnings to the protestors to that effect.

Furthermore, the mentioned surveys confirm that the vast majority of police officers deployed on the night of May 25-26 were disciplined and acted within their orders at all times, and used a proportionate and necessary amount of force to achieve their objectives. Besides, the Tactical Plan and the Intelligence Analysis were sound, and were correctly and properly briefed to the police officers in advance to the dispersal operation; the special tactic of cutting and removing the Southern barrier (which was intentionally constructed by the protest organizers to hinder escape for the protestors) to allow controlled egress was appropriate and successful; the arrest strategy was also well prepared.

At the same time, the GoG acknowledges that some shortcomings were revealed during the dispersal operation, more precisely: the early movement northwards from the Freedom Square by the police officers, responding to a call for assistance at the cinema, led to the arrest phase being much closer to the Parliament than intended and became interspersed with the end of initial dispersal from the Parliament area; the fleeing vehicles introduced an unexpected crisis at an already busy period of the operation; the communications failure and heavy rain factor left the Forward Field Command and Unit Commanders without clear direction or ability to fully control the further deployments and to manage the use of force issues which arose.

[13] See Addendum of Georgia to the Report of the Working Group on Arbitrary Detention.

Due to these shortcomings several incidents of lack of professionalism and use of disproportionate force by police officers while dispersing the operation were identified and demonstrated the need of raising professionalism and specific skills of police officers in this regard.

Despite of noticed shortcomings and incidents identified thereto the abovementioned surveys strongly confirm that the sole purpose of the police actions was dispersal of the illegal demonstration and not spreading fear; overall dispersal operation is assessed as successful and proportionate to the legal aim.

As to the concern enshrined in paragraph 81, regarding increase number of allegations of violence and ill-treatment against protestors the GoG deems it important to underline that on the contrary to this assessment, a number of international actors have highlighted the progress made in Georgia in this regard.

In particular: Council of Europe noted that "Following the events of November 2007, the capacity of the police to maintain order during mass protest actions has improved and its behaviour has become more professional, as was demonstrated during the spring 2009 protests of the opposition.[14]

HRIDC (OSCE/ODIHR) evaluation on various manifestations held throughout the territory of Georgia is noteworthy as well:

"Several interventions with of use of force by police were carried out in general compliance with international standards. … While using force the police officers were effectively differentiating between perpetrators and peaceful demonstrators in a number of cases."[15]

"Cases of good practice in regards to police action were also observed in a number of occasions. In these instances officers restrained from intervention during the emergence of formal grounds and in one case successfully negotiated with the demonstrators."[16]

Moreover, according to the HRIDC Report, throughout the reporting period overall: different police forces were present in **50** out of **75** assemblies. Restrictions (including verbal or physical efforts) on the use of space were imposed by them only in **9** instances.[17] And the riot police actually intervened only once, during the May 26 events.[18]

Furthermore, the GoG devotes huge attention towards raising awareness on human rights protection among police officers. In this regard, a one-year basic and advanced training on *Crowd Management,* which was commissioned by U.S. State Department, was conducted for relevant police staff. The objective of the trainings was to provide police officers with the skills necessary to plan for, manage and respond to crowd issues at demonstrations, public events while respecting human rights and protecting public safety.

4. As per Convention against Torture and other Inhumane or Degrading Treatment or Punishment and the Covenant on Civil and Political Rights, provided in paragraph 81 relevant stakeholders have underscored substantial progress of Georgia with regard to acts prohibited by above acts.

[14] Council of Europe, *Regular report prepared by the Directorate General of Democracy and Political Affairs (January 2010)*, Georgia, SG/Inf (2010)1 final 17 March 2010, §22, available at: https://wcd.coe.int/ViewDoc.jsp?id=1578745&Site=CM.

[15] HRIDC, *Monitoring Freedom of Peaceful Assembly in Georgia. Legislation and Practice*, p. 65.

[16] Ibid.

[17] Ibid., p. 20.

[18] Ibid., p. 33.

In this regard, Council of Europe notes: "[t]he authorities have taken measures to combat ill treatment and impunity, and considerable progress has been made in reducing the risk of ill-treatment by police officers."[19]

While European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) "welcomes the determined action taken by the Georgian authorities to prevent ill-treatment by the police. Considerable progress has been made in reducing the risk of ill-treatment at the hands of police officers.[20]

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[19] Summary. IV.Concerns related to administration of justice, in: Council of Europe Commissioner for Human Rights, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Georgia from 18 to 20 April 2011*, CommDH(2011)22, 30 June 2011, available at: https://wcd.coe.int/wcd/ViewDoc.jsp?id=1809789.

[20] European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 February 2010*, CPT/Inf (2010) 27, 21 September 2010, ¶16, available at: http://www.cpt.coe.int/documents/geo/2010-27-inf-eng.htm.