

Utilizing Administrative Detentions During Protests as a tool to Suppress Freedom of Expression

This document examines the administrative arrests of six human rights defenders and activists who were detained during the rally held in front of the Parliament on June 2, 2023. The review relies on interviews conducted with the detained human rights defenders, along with publicly available sources. On the night of June 2, a total of seven activists were detained¹.

Human Rights House notes that conducted interviews, analysis of facts, and publicly available video recordings unequivocally establish that the activists exercised their rights within the bounds of freedom of expression and freedom of assembly, which are rights protected by the legislation of Georgia, the Georgian constitution, and international law.

The act of expressing an opinion through the display of a banner, even if the conveyed opinion is disagreeable to others, is safeguarded by Georgian legislation, the constitution, and various international conventions.

The government of Georgia is responsible for providing a peaceful and enabling environment for human rights defenders and activists within the country. Protests, discussions, and the peaceful expression of dissent or occasionally contentious ideas are integral to the development of a democratic state.

Arbitrary detention of individuals is unacceptable, and human rights defenders should not be detained for exercising their rights or for defending the freedoms of expression or assembly of others. These rights are protected by the Universal Declaration of Human Rights (A/RES/3/217), Article 9; the Human Rights Council resolution (UN Doc: A/HRC/RES/22/6), OP 10 (c); and the UN General Assembly resolution (UN Doc: A/RES/70/161), OP 8. It is the responsibility of Georgia to fulfill its international obligations.

¹ Note: Human Rights House Tbilisi was unable to establish contact with one of them. Nevertheless, HRHT remains committed to closely monitor the proceedings of this particular case as well.

We urge the government of Georgia to:

- **Cease the administrative proceedings against all those who were detained at the June 2 rally.**
- **Put an end to the practice of employing illegal and disproportionate administrative detentions during protests.**

The Alarming Increase in Disproportionate and Illegal Detentions

In light of the ongoing protests of recent months, the practice of administrative detention has become a tool utilized by the state to limit the freedom of expression and assembly for human rights defenders and activists.

Following the March demonstrations against "Russian law," hundreds of individuals² have been subjected to administrative detention. On average, the majority of them received fines ranging from 2000 to 3000 GEL.³ Activists are typically charged under articles 166 (*Disorderly conduct*) and 173 (*Non-compliance with a lawful order or demand of a law-enforcement officer, or commission of any other unlawful act against such person*) of the Administrative Offences Code of Georgia.⁴ The fines for these offences were increased as part of the changes implemented in 2021. In the majority of cases, individuals are unable to afford the fines without support from their friends, colleagues, or other organizations.

²See the webpages: <https://www.radiotavisupleba.ge/a/32418904.html>
<https://www.radiotavisupleba.ge/a/32297649.html>
<https://tabula.ge/ge/news/698552-ngo-ebi-7-8-martis-aktsiebbe-dakavebulebbe-shss-s>

³See the cases documented by the Human Rights House, Stories of detainees: <https://www.facebook.com/humanrightshousebilisi/posts/pfbid0SrQeB3NxY2KwGLjxNgE5cWmqhrPKMPyxeH9vhaaTJkPpfCcBCY26AJ92rmvdWGsVl>

⁴See: Administrative Offences Code of Georgia, webpage: <https://matsne.gov.ge/ka/document/view/28216?publication=519>

Rally on June 2 and Cases of Detained Activists

Human rights defenders and activists organized the protest in response to statements made by the Prime Minister of Georgia during the World Security Forum (GLOBSEC) in Bratislava. These statements included the Prime Minister's response to a journalist's question during one of the thematic discussions, where he stated that "one of the main reasons for Russia's invasion of Ukraine was NATO, NATO expansion."⁵ Citizens, activists, and human rights defenders objected to this statement and planned a peaceful protest in front of the parliament. The protest aimed to be non-violent, with citizens carrying banners to express their opinions by summarizing the Prime Minister in a single word ("Describe the Prime Minister in one word").

On May 30 and the subsequent days, citizens who arrived at the rally carrying banners were confronted by a group of policemen in front of the parliament, who confiscated the banners from the rally organizers. Despite this, the protest persisted in the following days, with the police consistently confiscating banners from the rally participants. In response, some activists resorted to displaying their opinions on their T-shirts instead of using banners. On June 2, the police arrested seven human rights defenders and activists who had attended the rally.

Common Violations and Trends Identified in Detainees' Cases:

- All detained activists and human rights defenders report that they were not provided with an explanation for their detention by the police.
- Despite the fact that publicly available video recordings⁶ confirm that the detainees did not resist law enforcement officers, the recorded reasons for the arrests included alleged resistance to the police and insults towards them.
- Individuals detained on June 2 describe the conditions in the detention center as normal, specifically highlighting the professional conduct of the staff.

⁵ See the webpage: <https://www.radiotavisupleba.ge/a/32434919.html>

⁶See the videos: <https://www.facebook.com/nikuradzemari/videos/1351699558709638>; <https://www.facebook.com/nikuradzemari/videos/760745295528449> ;

- None of the detainees were permitted to receive items from their friends or colleagues, including food and books. Some detainees questioned the restriction on food and books (which are not prohibited and should be allowed), but the police provided no explanation and simply stated that such were their orders.
- Detainees were held in isolation for 48 hours without any explanation. According to the Code of Administrative Offenses, a detained person must be brought before the court within 24 hours, with the possibility of extending this period by an additional 24 hours. In such cases, the responsible authority must provide a written justification for the extension (Article 247).
- Meeting with lawyers was challenging in the cases of some of the detainees.
- Some detainees reported waiting for hours without food or water in a police car before being placed in a cell.
- The majority of detainees were not housed in the police station cell in Tbilisi but in other cities across Georgia.
- Instead of being housed in the police station cells in Tbilisi, the majority of detainees were transported to different cities throughout Georgia.

Description of Individual Cases of Activists Arrested on June 2:

1. **Name:** Shota Tutberidze

Occupation: Human rights defender, Lawyer

Time of Arrest: June 2, around 21:00

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: TBD

On the evening of June 2, upon learning that the police had confiscated the banners of activists participating in a peaceful protest, Shota Tutberidze headed to the parliament. Within approximately an hour, he found himself arrested while holding a banner displaying the

inscription "IRAYLI."⁷ Subsequent to Shota Tutberidze's arrest, the rally organizers confronted the police, referring to the preamble and Article 17 of the Constitution, which guarantee the rights to freedom of opinion, information, mass media, and the internet. This discussion seemed to agitate the officers. Following the arrest, Shota Tutberidze was initially taken to Varketili and then transferred to Freedom Square. During the car ride, the police officers initially stated that he was being removed from the scene but later clarified that he was subject to administrative detention. While the law enforcement officers permitted him to use a phone, they forbade him from contacting his lawyer using his personal phone. Shota Tutberidze states that he experienced no form of mistreatment. He was released within a few hours.

2. **Name:** Lasha Janjghava

Occupation: Civil rights activist with the movement "Jiuti"

Time of Arrest: June 2, around 22:00

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: TBD

According to the video footage,⁸ Lasha Janjghava is seen standing near the fence erected by the Parliament. He notices a group of policemen approaching him and confiscating banners from the participants seated on the stairs. At that moment, Lasha is seen being held by a man dressed in black, waiting for the arrival of the officers. The video clearly shows that Janjghava did not resist the police and did not possess a banner. However, the arrest form states otherwise. Due to this contradiction with the actual events, Lasha refused to sign the form. He spent approximately 40 hours in the Dusheti Detention Isolator, describing the conditions as normal. However, he was not allowed to receive essential items, including a book.

⁷ Note: The word "IRAYLI" written with Georgian letters, does not have any meaning/definition in Georgian language. One letter from the word - "Y" - relates to the word that expresses swearing, indecency. On the other hand, Irakli is a Georgian name. Some police officers argued it is insulting for all people named Irakli.

⁸ See the video: <https://www.facebook.com/LJanjghava1/videos/6337586809628302>

Lasha was released on the basis of a written undertaking, and his case has not yet been referred to the court.

3. **Name:** Eduard Marikashvili.

Occupation: Human rights defender, Lawyer, Head of the “Georgian Democracy Initiative”

Time of Arrest: June 2, around 00:00

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: Scheduled for June 23, 11:00

Eduard Marikashvili joined the rally on June 2 upon learning about the violation of constitutional rights faced by activists and human rights defenders.

An hour after arriving at the rally, Eduard and his colleagues were arrested. Eduard was holding a blank sheet of paper without any inscription, which an officer confiscated and tore apart. Marikashvili inquired with the authorities why his paper was taken, and in response, he was immediately arrested. There is photographic and video evidence documenting the entire incident.⁹

Eduard was taken to Telavi Detention Isolator, where he was held for 48 hours. His right to legal representation was restricted during this time.

4. **Name:** Nika Romanadze

Occupation: Civil rights activist

Time of Arrest: June 2, approximately 00:00

⁹See the webpages: <https://www.facebook.com/photo?fbid=291141053264958&set=a.210923817953349>
<https://www.facebook.com/gdi.ge/videos/6286515938130628>

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly Conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: Scheduled for June 23, 11:00

Nika Romanadze was also present at the rally on June 1, where his banner was confiscated and torn apart by the police. In response to Shota Tutberidze's arrest, Nika decided to attend the rally on June 2. Upon arriving, he, along with other participants, utilized a megaphone to recite excerpts from the Georgian constitution to the policemen present. Subsequently, the police began seizing and dismantling the banners. When Lasha Janjghava was arrested, Nika once again held up his banner. The police requested that he put away the banner, to which Nika explained that they were infringing upon his rights. Despite multiple instances of the banner being taken and torn down, Nika was eventually arrested. Similarly to others, Nika's report falsely indicates that he resisted the police. However, Nika declined to sign the arrest form. Following his detention, Nika Romanadze was transferred from the state security building to the Telavi Detention Isolator. During the nine-hour journey, he was not offered food or water.

Nika spent 48 hours in the Telavi Detention Isolator, during which time he was prohibited from receiving necessary items or food (with the exception of cigarettes). Despite inquiring about the situation, Nika was repeatedly informed that those were the orders.

5. **Name:** Saba Brachveli

Occupation: Representative of the "Open Society Foundation" organization, Human rights defender, Lawyer

Time of Arrest: June 2, around 00:00

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly Conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: Scheduled for June 23, at 11:00

Saba Brachveli joined the rally following the arrests of several peaceful activists who had displayed banners. When law enforcement officers demanded that Saba surrender his banner, he asserted his right to hold it. Brachveli reminded the officers of the significant ruling by the European Court of Human Rights, which states that freedom of expression protects opinions that may "offend, shock, or disturb the State or any sector of the population."¹⁰ Consequently, detaining a protester solely for displaying a banner is impermissible.¹¹ Saba's banner bore the inscription "IRAYLI."

Saba spent over an hour at the police department, where he noticed that the arrest forms for all detainees were identical, indicating that the police officers simply copied information from each other's forms. Saba was denied the opportunity to make a phone call as well.

Initially, he was taken to Gurjaani but was later transferred to the Telavi Detention Isolator. It was only at dawn that he had a meeting with a representative from the Public Defender's office, after which he was placed in a cell. Saba reports that he did not experience any disrespectful behavior towards him. Although he was handcuffed, the restraints were not excessively tight. Furthermore, Saba was not allowed to receive food or books sent to him. He was released 48 hours after his arrest, with no explanation provided for the extended detention period.

6. **Name:** Nodar Sikharulidze.

Occupation: Civil activist

Time of Arrest: June 2, approximately 00:00

Charges: Non-compliance with a lawful order or demand of a law-enforcement officer and disorderly Conduct (Articles 166 and 173 of the Administrative Offences Code of Georgia)

Court Appearance: Set for June 23, 11:00.

¹⁰See para 45, webpage: <https://hudoc.echr.coe.int/fre#%7B%22tabview%22:%5B%7B%22document%22%3A%22001-221542%22%7D>

¹¹ <https://strasbourgobservers.com/2023/02/28/peradze-v-georgia-vulgar-language-public-morals-and-the-right-to-peaceful-assembly/>

Nodar Sikharulidze participated in the rallies for several days and strongly believes that the detainees were expressing their opinions peacefully within the bounds of freedom of expression on June 2. The banners held by Nodar and his friends were adorned with Asomtavruli script.¹² Prior to Nodar's detention, several activists had already been detained. Once the police officers deciphered the messages on the banners, they began detaining the activists. Nodar was not provided with any explanation for his detention. Initially, he was taken to the Samgori Police Department and later transferred to Gurjaani. Similarly to the detention forms of others, Nodar's form indicated that he had resisted law enforcement officers and engaged in disorderly conduct. While Nodar signed the document pertaining to his confiscated belongings, he did not sign the arrest form. Nodar was subsequently held in the Gurjaani Detention Isolator for 46 hours. However, he was not informed about the reason behind the extension of his arrest beyond the initial 24-hour period.

Assessments by Various Organizations

On June 16, the Ombudsman of Georgia issued a response regarding the detentions of activists and human rights defenders. The Ombudsman conducted a thorough examination of the cases of five detainees (Saba Brachveli, Eduard Marikashvili, Nika Romanadze, Grigol Prangishvili, and Nodar Sikharulidze). The evidence presented by the defenders was carefully analyzed, revealing that the actions of the detainees were entirely peaceful. In response, the Ombudsman submitted an Amicus Curiae to the Tbilisi City Court, which summarized international standards and relevant case laws from the European Court of Human Rights and the Constitutional Court of Georgia.¹³

The cases of Saba Brachveli, Eduard Marikashvili, Nika Romanadze, Grigol Prangishvili, and Nodar Sikharulidze were consolidated by the judge. They are scheduled to appear before the court on **June 23 at 11:00**. The cases of Shota Tutberidze and Lasha Janjghava **have not yet been transferred to the court.**

¹² The oldest form of the Georgian alphabet.

¹³ See the webpage: <https://www.ombudsman.ge/geo/190411044320siakhleebi/sakhalkho-damtsvelma-2-ivniss-dakavebuli-aktsiis-monatsileebis-sakmeebze-sasamartlos-mimarta>

Numerous local and non-governmental organizations have expressed their concerns and condemned the unlawful detentions of human rights defenders.¹⁴

¹⁴ See the webpages: <https://www.radiotavisupleba.ge/a/32444135.html>
[https://www.frontlinedefenders.org/en/profile/eduard-marikashvili-](https://www.frontlinedefenders.org/en/profile/eduard-marikashvili)
https://lawyersforlawyers.org/en/statement-on-the-arbitrary-arrest-of-georgian-lawyer-eduard-marikashvili/?fbclid=IwAR0kzJ9bNv3N5ocgRVm8VFPDqF1yhYz-vbROC9-AVHrIif_F5BDgNolGCPA
<https://www.hrc.ge/515/eng/>