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NGOs Call on Tbilisi City Hall not to Allow Unjustified Interference with Freedom of Assembly

The coalition Georgian Dream applied to NGOs, stating that Tbilisi City Hall refused to provide it with adequate time for installing a stage for a large-scale demonstration on Freedom Square in Tbilisi on May 27. Video footage of a conversation between the Georgian Dream representatives and Tbilisi City Hall shows that Tbilisi City Hall cited

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anticipated disruption of traffic as grounds for the refusal. More specifically, the city Hall's representative believes that installment of a stage together with corresponding equipment on Freedom Square prior to the demonstration may disrupt traffic, which amounts to artificial blocking of traffic under the Law of Georgia on Assemblies and Manifestations and would be deemed as unlawful. However, representatives of the Georgian Dream maintain that works for installment of the stage will not result in full blockage of the carriageway.

The below signatory NGOs clarify that in compliance with the universal principles of assemblies and demonstrations, the state is not only prohibited from interfering with the freedom of assembly but it is also obligated to take all measures necessary to facilitate exercising of this right.

Under the first clause in paragraph 4, Article 111 of the Law of Georgia on Assembly and Manifestation, "Blockage of a carriageway is prohibited, unless necessitated by the number of participants of an assembly or a demonstration". The stipulation "unless necessitated by the number of participants of an assembly or a demonstration" must be broadly interpreted. More specifically, when holding a demonstration in a due manner requires certain technical equipment that must be installed prior to the demonstration and it is impossible to do so without blockage of a carriageway, such action must be viewed as blockage of a carriageway "necessitated by the number of participants of an assembly or a demonstration". Otherwise, it would be impossible to hold a demonstration in a due manner, which will result in violation of the right guaranteed by Article 25 of the Constitution. As for the second clause in paragraph 4, Article 111 of the Law, prohibiting "blockage of a carriageway by automobiles, various constructions and/or items," this provision must be narrowly interpreted and applied solely to cases when a carriageway is blocked by automobiles, various constructions and/or items intentionally, as opposed to the need to organize a demonstration in a due manner. Any other interpretation of the provision makes it impossible to organize a large-scale event which is impossible to hold without technical equipment (installment of stage, audio or visual amplifiers, etc.).

Further, according to the ECHR practice, termination of ongoing rally and demonstration as well as imposition of any restrictions prior to holding an assembly amounts to intrusion in freedom of assembly (*Ezelin v. France*, judgment of 26 April

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1991, § 39).

Under the OSCE Guidelines on Peaceful Assembly, it is the responsibility of the state to put in place adequate mechanisms and procedures that are not unduly bureaucratic to ensure that this freedom is enjoyed in practice, and to live up to this responsibility, the state must always try to help organizers hold an assembly or a demonstration at a place of their choice.

Under the very same Guidelines, use of a public place for assemblies and demonstrations should be regarded as an equally legitimate to uses of public space as commercial activity or the movement of vehicular and pedestrian traffic. This principle must be taken into account by the state always when discussing restriction of assembly and manifestation.

Since it is impossible to hold a large-scale assembly without undertaking technical measures first for accommodation of the assembly, the refusal of the City Hall's representative to provide adequate time for installing a stage amounts to restriction of the right to assembly. Negotiations between the City Hall and the rally organizers should not be only formal in nature but oriented to a result and must yield an outcome satisfactory for everyone involved than formal recourse to the law (OSCE Guidelines, Explanatory Notes, 134).

In view of the universal principles for assemblies and manifestation, we believe that the state fails to substantiate its refusal to allow undertaking of technical measures necessary for accommodating the May 27 assembly by citing possible disruption of traffic, whereas for the purpose of holding different celebratory events marking the Independence Day on May 24, central streets of the city have been blocked since May 24 (Makhmudov v. Russia, no. 35082/04, para. 71).

Therefore, we believe that the recourse to the law on Assemblies and Manifestations prohibiting artificial blockage of a carriageway is a formal approach to the matter and amounts to unjustified interference with the right to assembly, particularly when organizers requested reasonable time for technical accommodation of the assembly.

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Georgian Young Lawyers' Association

Transparency International – Georgia

International Society for Fair Elections and Democracy

Coalition for Free Choice