

European Court of Human Rights: Karchava v. Georgia

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The European Court of Human Rights held that Georgia violated Article 10 of the European Convention on Human Rights by arresting a lone protester after he refused to comply with police orders to refrain from setting up a protest tent on a public square in Batumi. The Court found unanimously that domestic courts failed to provide relevant and sufficient reasons for the interference with the protester's right to freedom of expression.

Facts of the case

The applicant, a children's mental health specialist, planned to stage a solo demonstration to protest the lack of free lunches in public schools in Georgia. In the context of the protest, he would set up a tent in a public square in the vicinity of the Constitutional Court of Georgia and go on a hunger strike. On 26 December 2022, he notified the Batumi City Hall, stressing his plans for a peaceful and non-disruptive demonstration.

On 28 December 2022, while the applicant was setting up his tent, the police repeatedly approached him and instructed him to relocate to another venue. After the applicant refused to comply, he was forcibly removed from the site and arrested for the administrative offence of disobeying lawful police orders.

The police cited three reasons for his arrest: (1) the protest would have taken place very close to the building of the Constitutional Court, (2) the protest would have taken place in the vicinity of a public statue, (3) the protest would have taken place in an area that would be used for New Year's Eve celebrations where fireworks may be used. Domestic courts found the applicant guilty of this administrative offence and, in the light of the absence of any previous convictions, imposed a verbal reprimand.

The Court's judgment

The applicant brought the case to the European Court of Human Rights, arguing that his removal from the protest site, his arrest and his subsequent conviction for the administrative offence infringed on his right to freedom of expression (Article 10) and on his right to freedom of peaceful assembly (Article 11). The Court noted that since the subject matter of the case concerned a solo protest, Article 10 could be considered the *lex specialis* applicable to the case. But since "the

guarantees under Article 10 and 11 often complement one another", the Court's examination of the interference with Article 10 would be informed by the general principles developed in its jurisprudence on Article 11.

The Court recalled that the right to freedom of expression also includes the freedom to express ideas through conduct, including through protest activities. While it is important for demonstrators to comply with applicable laws, any restriction on their freedom to protest must satisfy the Court's standard three-step test: it must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society. Referring to earlier judgments, the Court confirmed that the domestic legal framework satisfied the lawfulness requirement (*Makarashvili and Others v. Georgia*; *Chkhartishvili v. Georgia*). It also considered that the applicant's removal from his intended protest site could have pursued the legitimate aims of the "prevention of crime" or the "prevention of disorder".

Turning to whether the interference was necessary in a democratic society, the Court pointed out that the applicant's planned protest concerned a matter of public interest, as it aimed to draw the attention of the public and authorities to the issue of the lack of free school lunches. As such, only "particularly strong reasons" could justify any restriction on his protest. The Court then proceeded to examine, in turn, the three arguments put forward by the police and the domestic courts for the arrest and conviction of the applicant.

The first argument concerned the vicinity of the protest to the building of the Constitutional Court. Under the applicable legislation, demonstrations were prohibited within 20 metres of the building. The Court noted that photographic evidence contested that the protest site was within this 20-metre zone. Since domestic courts did not make an attempt to verify the accuracy of the police's allegation, the Court found that this argument could not be considered "relevant" or "sufficient" to justify the interference with the applicant's right to freedom of expression.

The second argument concerned the vicinity of the protest to a public statue. The Court observed that public monuments merit special protection and measures that are necessary to prevent damages to them can be considered necessary in a democratic society. However, the applicant did not show any intention to damage the statue, he merely intended to set up a tent 12 metres away from it. In light of this, the Court was not convinced that the protest posed a genuine risk to the statue, and therefore considered this argument neither "relevant" nor "sufficient" to justify the restriction of the applicant's right to freedom of expression.

The third argument concerned the need to ensure the safety of the applicant in light of the possible use of pyrotechnics in the area on New Year's Eve. The Court stressed that alleged risks have to be supported by "concrete evidence", they cannot be based merely on speculative assumptions. As the domestic courts did

not verify whether the protest location had in fact been designated as an official location for the festivities, the Court did not find that the potential use of pyrotechnics presented a real danger to the applicant. This conclusion was reinforced by the timing of the protest, which was set to start four days before New Year's Eve. Accordingly, there was no need for the authorities to immediately remove the applicant on the alleged risk of fireworks. Allowing the applicant to proceed with his solo protest in those four days "would have allowed him to convey his message on the matter of public interest".

Having found none of the three arguments relied on by the government to be "relevant" or "sufficient" to justify the interference, the Court turned to examine the proportionality of sanctions. Although the verbal reprimand could be considered minor, the severity of the sanction was compounded by the applicant's forcible removal from the protest site, his arrest and detention for 24 hours. The combination of these factors "was capable of producing a chilling effect on the applicant's exercise of his freedom of expression and assembly".

In the light of these considerations, the Court found that the necessity of the interference had not been demonstrated by sufficient and relevant reasons. It, therefore, held that Georgia had violated Article 10 of the Convention, interpreted in light of Article 11.

European Court of Human Rights, Karchava v. Georgia, No. 34790/23, 23 June 2026

<https://hudoc.echr.coe.int/?i=001-250745>

European Court of Human Rights, Makarashvili and Others v. Georgia, Nos. 23158/20, 31365/20, 32525/20, 30 January 2023

[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-218940%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-218940%22]})

European Court of Human Rights, Chkhartishvili v. Georgia, No. 31349/20, 11 August 2023

[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-224577%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-224577%22]})

