

Georgian Legislation Protecting the Right to Peaceful Protests

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The right to freedom of assembly and manifestation is guaranteed human right under the constitution of Georgia. The detailed provisions on organizing peaceful assemblies are defined under the Constitution of Georgia, international agreements, “Law of Georgia on Assemblies and Manifestations” and other legislative acts.

Article 21 of the Constitution of Georgia reads as follows: “Everyone, except those enlisted in the defense forces or bodies responsible for state and public security, shall have the right to assemble publicly and unarmed, without prior permission”. The basic legislative framework on Freedom of Assembly is established by the Law of Georgia on Assembly and Manifestations (1997) which follows the international standards and regulates the implementation of the right to assembly provided by the Georgian Constitution. It defines an assembly as gathering of the citizens inside or outside in order to express solidarity or protest. The Law differentiates “the assembly” from “the manifestation”, defining the manifestation as “the demonstration of citizens, mass public gatherings, the march in the street with the aim to express solidarity or protest, or the march with posters, slogans, or any other visual materials.”

In accordance with Article 2 of the Law of Georgia on Assemblies and Manifestations the right to assembly can be restricted in order to protect one of the rights defined under Article 17 paragraph 5 of the Constitution of Georgia (such as: state security; territorial integrity or public safety; protection of the rights and dignity of others; prevention of the disclosure of a confidential information; independence and impartiality of a court) it should be covered by law, it should be proportionate, non-discriminatory, necessary in a democratic society and the right protected by restriction should not exceed the harm inflicted by the restriction. “The proportionality of the restriction” means the restriction of the rights defined under Article 17 paragraph 5 of the Constitution, which is the most effective and less restrictive measure in order to achieve the aim. More stringent measures should be used only when the protection of the rights defined under Article 17 paragraph 5 are not possible.

Although the right to assembly can be claimed by everyone, Article 3 of the law of Georgia on Assemblies and Manifestations provides detailed list of those persons who do not enjoy the right to assembly and manifestation due to the fact that they are enlisted in the defense forces or bodies responsible for state and public security.

There are some procedural obligations that the organizer of the assembly or manifestation has to follow. Even though the organizers are able to hold an assembly without prior notification as long as they don't hinder the transport movement, pursuant to Article 21 Paragraph 2 of the Constitution of Georgia the law may establish the necessity of prior notification of authorities if an assembly is held

on a public thoroughfare. The notification of the organization of an assembly or manifestation should be submitted to the local self-governing executive authority no less than 5 days before it is being held. The decision of the local self-governing authority that restricts the right of assembly or manifestation can be appealed at court. The court has 2 working days for making a decision.

The right to assembly is not an absolute right, pursuant to Article 21 of the Constitution of Georgia, authorities may terminate an assembly only if it assumes an unlawful character. The organizers of assemblies and manifestations are prohibited from calling for the destruction of Georgian Constitutional order or changing it by violence, from violating the country's independence and territorial integrity, or from calling for propaganda of war and violence steering up national, sectarian, religious or social intolerance, that creates obvious, direct and substantial threat. It is the duty of the person who receives such a notification to warn the person responsible for the organization of the assembly or manifestation about the liability for the failure to comply with the imposed requirements.