



POLITICAL
PRISONERS OF
THE REGIME
IN GEORGIA

GEORGIAN DEMOCRACY INITIATIVE 

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Political Motive Behind Justice

On November 28, 2024, Irakli Kobakhidze issued a statement¹ announcing the Georgian Dream party's decision to abort the efforts to start the accession negotiations with the European Union until the „end of 2028“. This announcement sparked widespread public outrage, leading to nationwide peaceful protests. The primary demands of the hundreds of thousands of demonstrators include the organization of new parliamentary elections and the release of individuals detained under the framework of ongoing repressions.

This development was preceded by the highly contentious parliamentary elections held on October 26, 2024, whose results were rejected by the President of Georgia, opposition parties that surpassed the electoral threshold, and a significant portion of the population. The elections were also critically assessed by the OSCE/ODIHR², whose unprecedentedly critical report highlighted numerous issues, including large-scale violations of the fundamental principle of electoral secrecy. These concerns are further exacerbated by the lack of international legitimacy surrounding the election process.

Furthermore, on November 25, 2024, the Parliament of Georgia, in violation of both the Constitution of Georgia and the Rules of Procedure of the Parliament of Georgia, unlawfully recognized the authority of 150 deputies. This action disrupted the democratic chain of governmental legitimacy and marked a departure from the constitutional order. The recognition of parliamentary authority was in direct contradiction to the Rules of Procedure, as the recognition of the legitimacy of full composition of the Parliament was under appeal in the Constitutional Court. Consequently, until the Constitutional Court rendered its decision, the Parliament lacked the legal authority to convene and validate the mandates of its members.

The Georgian Dream has responded to the legitimate protests of the people with extensive and brutal police force, resorting to repression. To date, the authorities have detained approximately 500 participants in the peaceful demonstrations held outside the Parliament building. The majority of those arrested have been subjected to torture, as well as degrading or inhuman treatment during and/or following their detainment.

Shortly after the protests commenced, the Georgian Dream-led single-party parliament enacted a package of repressive laws. These measures imposed a series of authoritarian restrictions on freedom of expression and assembly, established a mechanism for preventive detention, and significantly increased fines for violations. The persecution of hundreds of individuals remains ongoing, with authorities retroactively identifying and penalizing participants for their presence at the demonstrations. The Ministry of Internal Affairs classifies mere attendance at a protest as an unlawful road obstruction, imposing fines of no less than 5,000 GEL on alleged violators.

¹ Available at: <https://civil.ge/archives/638801>

² OSCE, ODIHR Election Observation Mission Final Report. Available at: <https://www.osce.org/files/f/documents/1/6/584029.pdf>

The authorities have detained approximately 50 protest participants under criminal charges during the demonstrations. The Prosecutor's Office has accused the detainees of various offenses, including organizing or participating in group violence³, damage or destruction of property⁴, attacking a police officer⁵, illegal purchase/storage of drugs⁶, violence⁷ and persecution⁸.

The Prosecutor's Office of Georgia requested the imposition of imprisonment as a preventive measure for all the aforementioned defendants. The court granted the prosecutor's motions and ordered the detention of all the defendants. Activists arrested under criminal charges during the protests of April-May 2024 also remain in custody.⁹ Additionally, Mzia Amaglobeli, the founder and head of the media outlets "Batumelebi" and "Netgazeti," as well as a journalist, continues to be held in pre-trial detention.

It is important to highlight that, to date, the vast majority of Western countries have refrained from congratulating the Georgian Dream on its election victory. Several governments have labeled the Georgian Dream as a self-proclaimed administration, thereby casting doubt on the legitimacy of the government both domestically and internationally. Furthermore, the Great Britain, the Baltic states, Germany, and the United States have imposed sanctions on Bidzina Ivanishvili, the founder of the Georgian Dream, as well as on senior law enforcement officials, judges, and members of Parliament. These sanctions have been imposed on various grounds, including the erosion of democracy, serious violations of human rights, and the promotion of Russian interests within Georgia.

Both local and international organizations are calling for the release of those who have been unlawfully detained by the regime.

The reality is that the Georgian Dream, by establishing an authoritarian, police-driven regime in Georgia, is employing repression, the justice system, and detentions as tools to punish protest participants with political motives or affiliations. The government is attempting to stifle the growing wave of protests in the country through these repressive measures.

The Georgian Democracy Initiative is actively examining these criminal cases from the standpoint of politically motivated justice.

Resolution 1900(2012)¹⁰ adopted by the Parliamentary Assembly of the Council of Europe outlines the definition of a political prisoner and the associated legal criteria.

³ A crime defined under Article 225 of the Criminal Code of Georgia.

⁴ A crime defined under Article 187 of the Criminal Code of Georgia.

⁵ A crime defined under Article 353¹ of the Criminal Code of Georgia.

⁶ A crime defined under Article 260 of the Criminal Code of Georgia.

⁷ A crime defined under Article 126 of the Criminal Code of Georgia.

⁸ A crime defined under Article 156 of the Criminal Code of Georgia.

⁹ Georgian Young Lawyers Association (GYLA), The Cases of Individuals Detained under Criminal Law in relation to the Protests. Available at: <https://bit.ly/4azvNke>

¹⁰ Parliamentary Assembly of the Council of Europe, Resolution 1900(2012). The definition of political prisoner. Available at: <https://bit.ly/40tkTla>

According to these criteria, a person deprived of his or her personal liberty is to be regarded as a 'political prisoner':

- a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association;
- b. if the detention has been imposed for purely political reasons without connection to any offence;
- c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of;
- d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or,
- e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities;

According to the resolution, an individual deprived of personal liberty shall be recognized as a political prisoner if at least one of the prerequisites outlined above is met in their case.

The Case of Luka Jabua

Based on the criteria outlined in Resolution No. 1900 (2012) of the Parliamentary Assembly of the Council of Europe, GDI has conducted an assessment of the case of Luka Jabua. The analysis concludes that his imprisonment satisfies at least criteria (b) and (e) of the resolution. Consequently, **Luka Jabua qualifies as a political prisoner and must be released immediately.**

21-year-old Luka Jabua was arrested on December 6, 2024.

The prosecution accuses Luka Jabua of participating in the actions of an organized violent group. The offense is classified under Article 225 (2) of the Criminal Code of Georgia.

The Prosecutor's Office states that on November 29, 2024, Luka Jabua was present at a protest rally near the Parliament building. He allegedly participated in the actions of a violent group, throwing a heavy object in the direction of law enforcement officers, thereby endangering the lives and health of both the officers and other individuals in the vicinity.

The prosecution has presented the following evidence in the case:

- One video recording, which shows the accused making a throwing motion with his hand and hurling an unidentified object toward law enforcement officers. However, the footage does not capture where the object lands.
- A habitoscopic forensic examination report, which identifies the individual depicted in the video as Luka Jabua.

Luka Jabua's detention appears to be politically motivated, with no connection to any actual violation of the law.

The Prosecutor's Office of Georgia has charged 19 individuals detained during the protests under Article 225 of the Criminal Code of Georgia. Among them, 3 individuals are accused of organizing a violent group (Article 225(1)), while 16 individuals, including Luka Jabua, are accused of participating in the actions of the organized violent group (Article 225(2)).

Article 225 (1) of the Criminal Code imposes a penalty for *“organisation or management of a group activity accompanied by violence, raid, damage or destruction of another person's property, use of arms, armed resistance to or assault on representatives of public authorities. organizing or leading a group action that involves violence, rioting, damage or destruction of another person's property, the use of weapons, resistance to a government official”*. The aforementioned crime shall be punished by imprisonment for a term of six to nine years. Article 225 (2) penalizes participation in the act provided for by paragraph 1, with a punishment of four to six years of imprisonment.

The objective aspect of the crime outlined Article 225 (1) is the organization of group violence, demonstrated through actions such as selecting the location for the riot, determining the time and method for carrying out the mass disturbance, gathering a group of individuals, and similar activities¹¹. Meanwhile, Part 2 of the same article pertains to involvement in the activities of an organized violent group, specifically participation in such a group. Therefore, for the crime to be correctly qualified there **must first be an organizer who establishes the violent group, followed by the intentional participation of a specific individual in the actions of the organized violent group**.

The case files of the individuals presented by the Prosecutor's Office lack the evidence to confirm that the accused individuals organized a violent group, knew each other, or formed a mutually agreed-upon action or any other form of organized structure. The Prosecutor's Office charges the detained individuals with committing separate, isolated acts on different days and in different locations in November and December 2024. According to the Prosecutor's Office, these acts are alleged to constitute the elements of Article 225. As previously mentioned, the act outlined in Article 225 (1) of the Criminal Code requires the creation or organization of a violent group. In the present case, not only is there a lack of evidence confirming the crime specified in Article 225 (1), but there is also an absence of any evidence to support the existence of such an organized group. Therefore, the crime described in Article 225 (2) cannot be applicable either.

For a comprehensive legal assessment, it is important to consider other relevant articles of the Criminal Code of Georgia to determine whether Luka Jabua's actions might involve elements of other crimes.

In this context, Article 239 of the Criminal Code, which addresses hooliganism, is particularly noteworthy. This provision pertains to actions that grossly violate public

¹¹ Lekveishvili M, Todua N, Mamulashvili G. Private Part of the Criminal Code. Pg.600

order and demonstrate clear disrespect for society, carried out with violence or the threat of violence.

A legitimate question can arise, why throwing a stick or, for example, a plastic bottle at a Special Forces unit does not even qualify as the aforementioned hooliganism. The answer lies in the interpretation of the terms within the Criminal Code. The terms used in the Criminal Code do not hold autonomous meanings; they must be understood in the context of the definitions and terms set out within the same code. In this case, the term "violence" plays a crucial role for both Articles 239 and 225.

The term "violence" is defined in Article 126 of the Criminal Code, which refers to acts such as beating or other forms of violence that cause physical pain to the victim. However, it does not include the outcomes specified in Article 120 of the same code, which concerns *"entailing a short -term deterioration of health or an insignificant or unstable loss of general working ability"*.

In Luka Jabua's case, there is not only an absence of evidence showing that his actions caused any minor harm to anyone's health, but there is also no identified victim. The Prosecutor's Office does not have a victim in this case, as no such individual exists in relation to Luka Jabua's actions.

Therefore, it is evident that the Georgian Prosecutor's Office, in this case, is using criminal prosecution on one hand to damage the image of the protest rallies by portraying them as violent, and to suppress the protest movement by repressing and on the other hand, by repressing and arresting Luka Jabua and other individuals, the authorities are using these actions as an instrument to terrorize the protest movement and intimidate society.

Based on the above, Luka Jabua has been placed in criminal pre-trial detention for purely political purposes and motives, as his actions bear no connection to any actual crime.

Luka Jabua's imprisonment is the outcome of a trial that was evidently unfair and appears to be driven by the political motives of the authorities.

At the initial appearance of the accused in court, the Prosecutor's Office requested the imposition of imprisonment as a preventive measure against Luka Jabua.

Substantiation of the Prosecutor's Office's Motion

The Prosecutor's Office argued in its motion that there was a risk of Luka Jabua absconding, destroying evidence, or committing new crimes.

However, in substantiating these alleged threats, the Prosecutor's Office relied solely on the gravity of the charges and the potential sentence of imprisonment, asserting that these factors justify the need to prevent absconding, destruction of evidence, or the commission of new crimes.

On the other hand, the prosecutor's motion fails to present any evidence or information that would substantiate the validity of the alleged threats.

Standard for the Use of a Measure of Restraint

According to the Criminal Procedural Code of Georgia, “A measure of restraint shall be applied to ensure that the accused appears in court, to prevent his/her further criminal activities, and to ensure the enforcement of the judgment. Detention or any other measure of restraint may not be applied against the accused if the purpose provided for by this paragraph can be achieved through another less severe measure of restraint”.¹² “The grounds for applying a measure of restraint **shall be a reasonable assumption** that the accused will flee or will not appear in court, will destroy the information that is important for the case, or will commit a new crime.”¹³ “A court may impose on the accused detention as a measure of restraint only when the purpose provided for by paragraph 1 of this article cannot be achieved by the application of other less severe measures of restraint”.¹⁴

The standard of “reasonable assumption” is explicitly defined in the Criminal Procedure Code of Georgia. According to the Code, for procedural purposes, reasonable assumption refers to **a set of facts or information** which, when considered in the totality of the circumstances of a given criminal case, would lead an objective person to conclude that an individual may have committed a crime. This **evidentiary standard** serves as the legal basis for conducting investigative actions and/or applying preventive measures.¹⁵

There must be a clear set of facts or information regarding the threats to be mitigated by the preventive measure. In the case of Luka Jabua, no such facts or information are presented.

According to the case law of the European Court of Human Rights, when detention is used as a preventive measure against an accused individual, the risks must be substantiated with specific and concrete evidence. The prosecutor's argumentation regarding these risks must not be abstract, general, or stereotypical.¹⁶

The Threat of Avoiding Appearance in Court

According to the case law of the European Court of Human Rights, the threat of avoiding appearance in court cannot be evaluated solely based on the severity of the sentence. It must be assessed in light of other relevant circumstances.¹⁷ This includes factors related to the individuality of the accused, their place of residence, activities, property, family ties, and any other connections with the country where the trial is taking place.¹⁸

In the case of Luka Jabua, neither the prosecutor's office nor the court presented any evidence or reasoning to substantiate the existence of this risk.

¹² Article 198 (1) of the Criminal Procedural Code of Georgia.

¹³ Article 198 (2) of the Criminal Procedural Code of Georgia.

¹⁴ Article 198 (4) of the Criminal Procedural Code of Georgia.

¹⁵ Article 3(11) of the Criminal Procedural Code of Georgia.

¹⁶ *Merabishvili v. Georgia [GC]*, 2017, § 222.

¹⁷ *Panchenko v. Russia*, 2005, § 106

¹⁸ *Becciev v. Moldova*, 2005, § 58.

The Threat of Committing a New Crime

According to the standards established by the European Court of Human Rights, the severity of the charges may serve as a justification for pre-trial detention to prevent a suspect from committing a subsequent offense. However, this risk must be substantiated as realistic, and the application of preventive detention must be proportionate to the specific circumstances of the case. In particular, due consideration must be given to the individual's personal background, past conduct, and character.¹⁹

In the case of Luka Jabua, prosecutor's office and /or the court failed to present any evidence or reasoning to substantiate the existence of this risk.

Threat of Obstruction of Justice or Investigation

According to the case law of the European Court of Human Rights, the risk that the accused may obstruct the proper conduct of the trial cannot be based on abstract considerations; it must be substantiated by factual evidence.²⁰ The possibility of exerting pressure on witnesses or destroying evidence cannot be justified solely by the severity of the potential sentence but must be supported by specific and concrete facts.²¹

Additionally, it is important to highlight that, according to the established practice of the European Court of Human Rights, the justification for each of the aforementioned threats diminishes over time as the period of detention progresses. Consequently, when considering the extension of a preventive measure, the court is obligated to conduct a more rigorous assessment of the prosecution's motion and thoroughly examine relevant evidence demonstrating the continued existence of these threats.

In the case of Luka Jabua, neither the prosecutor's office nor the court presented any evidence or reasoning to substantiate the existence of this risk.

Substantiation for the Use of a Preventive Measure by the Court

Luka Jabua was sentenced to imprisonment as a preventive measure on December 7, 2024, following the ruling of Tbilisi City Court **Judge Tamar Mchedlishvili**.

The judge did not uphold the prosecution's argument regarding the threat of Luka Jabua absconding. However, the judge concluded that there were potential threats related to the continuation of criminal activity, commission of new crimes, and destruction of evidence in the case of Luka Jabua. This conclusion was reached solely based on the severity of the alleged crime and the possible use of imprisonment as a sanction, despite

¹⁹ *Clooth v. Belgium*, 1991, § 40.

²⁰ *Becciev v. Moldova*, 2005, § 59.

²¹ *Merabishvili v. Georgia* [GC], 2017, § 224.

the absence of any evidence or factual information in the case that would substantiate the existence of such threats.

The judge of Tbilisi Court of Appeal – **Giorgi Mirotadze** affirmed the ruling of Judge Tamar Mchedlishvili in its decision dated December 12, 2024. In its ruling, the Court merely stated that it concurred with the validity of the first-instance court's decision to apply the preventive measure, without providing additional reasoning or justification.

Extension of Imprisonment as a Preventive Measure

On January 10, 2024, Tbilisi City Court **Judge Ketevan Jachvadze** upheld the detention imposed on Luka Jabua as a preventive measure.

The judge, however, failed to provide a legal justification for the continued detention and merely stated that the threats that had originally served as the basis for the detention still existed.

Tbilisi Court of Appeal **Judge Giorgi Mirotadze** upheld Judge Ketevan Jachvadze's ruling in a decision dated January 16, 2025. The ruling once again fails to reference any evidence that would justify the use of imprisonment as a preventive measure against Luka Jabua.

Conclusion

Luka Jabua has been imposed the imprisonment solely for political purposes, in response to actions that bear no connection to any criminal offense. Furthermore, Luka Jabua's detention is the outcome of legal proceedings that were manifestly unfair and appear to be driven by the political motives of the authorities.

In addition, the detention imposed on Luka Jabua is inconsistent with the established standards set forth by the European Court of Human Rights. The decision to detain him was based on abstract, general, and stereotypical reasoning, and the prosecution failed to present any substantive evidence to justify the application of detention, or any other preventive measure.

In light of the above, it can be concluded that Luka Jabua qualifies as a political prisoner, as his case aligns with the criteria outlined in paragraphs "b" and "e" of Council of Europe Resolution 1900 (2012).

Political prisoner – Luka Jabua should be immediately released from detention!