

August 14, 2019

Shalva Tadumadze, Esq.
Prosecutor General of Georgia
Agmashenebeli Alley, 12th km
Tbilisi, Georgia

RE: Criminal Prosecution of Citizen Levan Vasadze

VIA E-MAIL (makapanadze@pog.gov.ge) and HAND DELIVERY

Dear Mr. Prosecutor General:

I write to you in my personal capacity, as a citizen of Georgia. The following is based on my reasonable belief and opinion, according to facts known to me through the public press (see Attachment 1).

I am concerned that the Prosecutor's Office of Georgia has unjustifiably failed, or refused, to prosecute Georgian citizen Levan Vasadze for serious criminal acts. This letter constitutes my complaint as a citizen against Mr. Vasadze, for crimes he has committed publicly and openly, according to press reports.

As you well know, the Constitution of Georgia "acknowledges and protects universally recognized human rights and freedoms." The Constitution does not "deny other universally recognized human rights and freedoms that are not explicitly referred to herein, but that derive from the principles of the Constitution." Art. 4.2. The Constitution holds that "all persons are equal before the law" – a principle that must apply to Mr. Vasadze's liability for crimes, as well as to the right of the victims of his crimes to protection under the law. Art. 11.1.

The Constitution protects freedom of opinion and expression of opinion, and the right to freedom of peaceful assembly without prior permission. Arts. 17.1 and 21.1.

In exercise of such rights, a group of Georgian citizens under the heading "Tbilisi Pride," sought to demonstrate for the recognition and protection of the rights of Lesbian, Gay, Bi-sexual and Transgender (LGBT) people during the week of June 16-22. This period falls within Pride Month, which is recognized around the world as a time of recognition and expression for LGBT communities.

From approximately June 15, 2019, and for several days thereafter, a Georgian citizen, Levan Vasadze:

- Organized a group of citizens, in whom he sought to include only men, and particularly sought physically strong men, inciting them to arm themselves with "shepherds' crooks" and "belts," for the purpose of (1) obstructing other Georgian citizens from expressing their opinions; and (2) obstructing other Georgian citizens from peacefully assembling for this purpose. Vasadze explicitly directed his actions against LGBT people ("sodomites," in his words), who are a distinct group protected against discrimination under Georgia's Criminal Code (Art. 142) and the Law of Georgia on Elimination of All Forms of Discrimination. Art. 1.
- Threatened Tbilisi Pride organizers, participants (LGBT people) and their supporters, with violence and detention by his organization of armed men.

- Threatened Georgian police with violence if they acted to protect the Tbilisi Pride marchers, or if they interfered in the actions of Vasadze’s organization of armed men.

A complete list of Vasadze’s statements constituting the illegal acts set forth above, published in the press, is attached to this letter as Attachment 1.

As a result of Vasadze’s threats, the Ministry of Interior notified Tbilisi Pride organizers in a meeting on June 17, 2019, that they could not protect them in the exercise of their constitutional rights of expression and assembly, thereby denying the Tbilisi Pride march organizers and participants equal protection under the law. See, for example, the statements of Georgia’s Public Defender, Nino Lomjaria, confirming that the Ministry of Interior had “rejected the request of activists to hold the Tbilisi March” and that, contrary to the law, the LGBT community does not have freedom of assembly in this country.” (1) <https://www.interpressnews.ge/en/article/102583-ombudsman-says-interior-ministry-rejects-lgbt-activists-request-to-hold-pride>; 2) <https://www.interpressnews.ge/en/article/102585-ombudsman-lgbt-community-does-not-have-the-freedom-of-assembly-in-this-country>; 3) <https://www.interpressnews.ge/en/article/551884-nino-lomjarias-gancxadebit-shinagan-sakmeta-saministrom-lgbt-aktivistebs-praidis-chatarebaze-uari-utxra>).

Accordingly, Vasadze’s threats against both citizens and police had the actual effect of preventing the Tbilisi Pride march – an expression of opinion, a peaceable assembly, by a group protected against discrimination – from occurring *as planned*. Not only is Vasadze’s criminal liability raised by this fact, but the liability of the state and the Ministry of Interior, for failing to provide equal protection under the law, and failing to protect the legal rights of citizens to peaceably assemble and express opinions, is raised as well.

Vasadze’s criminal conduct, as summarized here and listed more fully in Attachments 1 and 2, constituted violations of the following laws:

1. Violation of human equality on the grounds of sexual orientation (Criminal Code of Georgia, Art. 142). Vasadze’s threats of violence, formation of an armed group, and prevention of the Tbilisi Pride March, was directed against the Tbilisi Pride organizers and marchers due to their sexual orientation. See Attachment 1. *See also* the Law of Georgia on the Elimination of All Forms of Discrimination, Art. 2.2 (defining direct discrimination to include putting a person in a disadvantaged position in the enjoyment of his/her rights) *and* Art. 2.5 (instigating, encouraging or instructing another person to discriminate against a third party – i.e., - Vasadze instigated, encouraged and instructed his followers to discriminate against LGBT people in the exercise of their rights). *The state’s failure to provide equal protection of the law to the Tbilisi Pride marchers also raises criminal liability of state officials* – Art. 142(2)(a), Criminal Code of Georgia.
2. Public incitement to acts of violence...in order to cause discord between certain groups, based on their “racial, religious, national, provincial, ethnic, social, political, linguistic *and/or other characteristics*” provided that this poses “clear, direct and substantial risks of actual violence.” Criminal Code, Art. 239¹(1). Vasadze’s incitement sought to create discord between his followers, based on their religious views, and the Tbilisi Pride marchers, based on their “social, political and other characteristics.” The fact that the incitement posed “clear, direct and substantial risks of actual violence” is firmly evidenced by the fact that the Ministry of Interior required the Pride organization to cancel the march and said they could not protect it, on June

17, 2019, due to Vasadze's threats of violence and the organized group he had formed to carry it out.

3. Threatening death, bodily injury and destruction of property, when the person threatened has a reasonable fear that the threat will be carried out. Criminal Code, Art. 151. The same is subject to even higher criminal penalty if the threat is carried out by a group, as it was in this case, because Vasadze had formed an armed group. Art. 151(2.3.a). The particular threats of physical violence Vasadze made are detailed in the annex (eg. threatening to break through police cordons, physically detain marchers, tie their hands with belts, remove them, threatening that his group will unleash mass violence if the march is allowed, etc.). The fact that both police and marchers had a reasonable fear that the threats would be carried out is firmly evidenced by the Ministry requiring the Pride organization to cancel the march, saying the police could not protect it, on June 17, 2019, due to Vasadze's threats of violence and the organized group he had formed to carry it out.
4. Persecution of persons because of their speech, opinion...political, social activities, committed using the threat of violence. Criminal Code, 156(1) and 2(a). Vasadze's persecution of the Pride organizers and participants because of their "speech, opinion, political and social activities," using the threat of violence, is entirely obvious on the facts. See Attachment 1.
5. Unlawful interference with the exercise of the right to hold or participate in an assembly or demonstration, using the threat of violence. Criminal Code, Art. 161. Vasadze's unlawful interference with the right of the Tbilisi Pride organizers and participants to assemble and demonstrate, using the threat of violence, is entirely obvious on the facts. See Attachment 1.
6. Creation, management, joining or participating in an illegal formation (militia units, squads, or other groups). Criminal Code, Art. 223(1) and (2). It is also illegal to disseminate information regarding such an illegal formation, to finance it, and to incite others to join it. Criminal Code, Art. 223(3), (4), and (6). Vasadze's call that the members of his organization arm themselves with "shepherd crooks" and "belts" to break through police cordons, and to beat and detain demonstrators, and the fact that members of the organization did so arm themselves, means the illegal formation was "armed" as defined in the law ("melee weapons or such devices or objects that may be used to harm or destroy living or other objects"). And the fact that the organization was set up to deny the Tbilisi Pride marchers equal protection of the law, and to prohibit them from exercising their rights of free opinion and assembly, means that the organization had the criminal purpose required under the law for prosecution. See, Criminal Code, Art. 223, Note 1.
7. Setting up a religious, political or public association, the activities of which involve violence. Criminal Code, Art. 252. The illegal formation organized by Vasadze, referenced in the previous paragraph, was formed for the purpose of carrying out violence against the police and against the Pride organizers and marchers, as the evidence clearly shows. Attachment 1.
8. Resistance against a police officer with the purpose to interfere with the protection of public order. Criminal Code, Art. 353. Vasadze's threats against police, and particularly his threat to break through police cordons and detain police, in order to reach Pride Marchers, to do violence to them, constituted resistance against police performing their job of protecting public order. In other words, the threats constituted actual acts of resistance against the police, because the threats convinced the police that they could not protect the march, and resulted in them

requiring the march to be cancelled. This was a direct interference in public order; if public order were maintained, the march could have been held.

Accordingly, Levan Vasadze's words and actions violate at least 14 separate provisions of the Criminal Code of Georgia, involving a wide array of crimes – unlawful discrimination, threat of bodily injury, persecution of persons for exercise of their rights of free speech and interference in their right of assembly, with the threat of violence and using arms; creation and management of an illegal formation and numerous related acts; public incitement to violence; and resistance to police.

Nonetheless, the Prosecutor's Office of Georgia has only opened an investigation of Vasadze for violation of Article 223 of the Criminal Code, related to illegal formations. ***It has taken no action, to investigate or prosecute him, for the numerous other violations of law he apparently committed, under Articles 142, 239¹, 151, 156, 161, 252 and 353 of the Criminal Code, and their various sub-parts.*** Moreover, there has been no news whatsoever of any progress in the investigation of Vasadze under Article 223 of the Criminal Code, despite the fact that the acts in question occurred nearly two months ago, and the facts are open and obvious, witnessed by dozens, if not hundreds of people, and reported in the press.

Is the Prosecutor's Office simply incapable of conducting a speedy and competent investigation?

The speed with which the Prosecutor's Office has prosecuted demonstrators for alleged crimes on the night of June 20-21 in demonstrations in front of the Parliament indicates that when the Prosecutor's Office wishes to do so, it can prosecute people very speedily for alleged crimes against the public order. Why then has it taken the Prosecutor's Office nearly two months to examine facts about Vasadze's illegal formation (armed group), and why has it failed completely to open an investigation as to the many other crimes he committed at the same time, and which are open, obvious and fully evidenced?

The failure of the Prosecutor's Office to speedily conclude the existing investigation of Vasadze under Article 223, and its utter failure to investigate and prosecute him for the numerous other crimes he apparently committed under numerous other articles of the Criminal Code, raises a strong inference of selective, politicized justice. This has no place in a democratic society based on rule of law.

For the foregoing reasons, I request that your office investigate and prosecute Levan Vasadze for the apparent violations of Georgian criminal law set out in this letter, and any other related causes and reasons known to you.

Kind regards,

Ted Jonas

Cc: Mr. Giorgi Gakharia, Minister of Interior
Ms. Tea Tsulukiani, Minister of Justice
Ms. Nino Lomjaria, Public Defender
H.E. Elizabeth Rood, Chief of Mission, United States Embassy in Georgia
Ms. Jeanette Rebert, Consular Chief, United States Embassy in Georgia