



Obscene slogan alone was no reason to stop people from demonstrating against urban development project

In today's Chamber judgment¹ in the case of [Peradze and Others v. Georgia](#) (application no. 5631/16) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights read in the light of Article 10 (freedom of expression).

The case concerned the applicants' arrest and conviction for brandishing a banner likening Panorama Tbilisi, an urban development project, to a human penis during a public demonstration. The project aimed to build four new city areas on Sololaki Hill overlooking Tbilisi Old Town.

The Court found that the applicants' arrest and fine had been based on a legal provision that explicitly prohibited the use of profanities in public places in order to protect the morals and the rights of others. However, the applicants had wished to alert the public and the domestic authorities to their concerns regarding the damage that Panorama Tbilisi might cause to the landscape of the Old Town, as well as to express their disapproval of what they considered to be the authorities' failure to involve society in the decision-making process. The applicants' conduct had been peaceful and passive, and they had not behaved in a disruptive manner during the demonstration. The Court considered the slogan had not been used to insult or to denigrate anyone in particular; it had been used as a stylistic tool to express the applicants' high degree of disapproval of the urban development project. Its controversial form was in itself no justification for restricting speech in a public demonstration that had aimed to highlight a matter of considerable public interest.

Principal facts

The applicants are seven Georgian nationals who were born between 1968 and 1993.

In July 2015, during the European Youth Summer Olympic Festival in Tbilisi, they took part in a demonstration against an urban development project called Panorama Tbilisi, which aimed to build four new city areas on Sololaki Hill overlooking Tbilisi Old Town. The project involved the building of hotels, apartments, offices, exhibition and conference halls, health and leisure centres, roads, cable cars, inclined elevators and numerous parking places. One of the largest contributors to the private equity fund behind the project was a Prime Minister of Georgia. After the project was announced, opponents including environmental activists, urban planners and architects began to express concern that the building work could cause irreparable damage to the uniqueness of the Old Town's landscape. They were also concerned about the lack of consultation in the decision-making process.

The building permit for the project was issued on 16 July 2015 and three days later, the applicants, together with hundreds of others gathered in front of Tbilisi City Hall, next to the Olympic Flame, in a protest organised by the first applicant. Another applicant brandished a banner likening Panorama Tbilisi to a human penis, with the slogan "Panorama, my cock!" ("პანორამა არა, ყლიე!"). After

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

50 minutes of standing still with his banner, the latter began to walk around with it, but was immediately arrested by police officers for disorderly conduct and for chanting an obscene slogan.

The other six applicants, in an act of solidarity, impulsively wrote the same slogan on pieces of paper and flaunted them in front of the police. One of the impromptu banners had a slightly modified inscription, addressing the slang term directly to the former Prime Minister. The six applicants were arrested and charged with disorderly conduct.

The video recordings of the incident did not show that any of the applicants had shouted the slogan out loud, or that any of them had disobeyed the police officers' orders, but the Tbilisi City Court found all seven applicants guilty of disorderly conduct for silently brandishing the banners with the slogan, and fined them 100 Georgian laris (approximately 40 euros) each. It referred to a provision of the Administrative Offences Code which made swearing in public illegal and to the need to protect public order and morals. It held that the slogan used was "a particularly offensive insult" in Georgian society and had "no political, cultural, educational or scientific value". Indecency could not contribute to public debate in a civilised manner and could therefore be legitimately restricted, without major prejudice to the applicants' right to freedom of expression.

The applicants' subsequent appeals were dismissed by the Tbilisi Court of Appeal.

Complaints, procedure and composition of the Court

The applicants complained that their arrest during a public demonstration and their conviction for the administrative offence of disorderly conduct had amounted to a violation of their right to freedom of expression (Article 10) and peaceful assembly (Article 11) of the Convention.

The application was lodged with the European Court of Human Rights on 12 January 2016.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra O'Leary (Ireland), *President*,
Arnfinn Bårdsen (Norway),
Stéphanie Mourou-Vikström (Monaco),
Lətif Hüseynov (Azerbaijan),
Lado Chanturia (Georgia),
Mattias Guyomar (France),
Mykola Gnatovskyy (Ukraine),

and also Victor Soloveytchik, *Section Registrar*.

Decision of the Court

[Article 11 in the light of Article 10](#)

The Court considered the complaint under Article 11 in the light of Article 10, rather than taking the complaint under Article 10 separately, as both complaints were based on the same facts and allegations and Article 11 took precedence in the circumstances.

The Court observed that the applicants' right to freedom of assembly had indeed been infringed because they had been arrested and fined for disorderly conduct. However, as the penalty had been based on a provision of the Administrative Offences Code that explicitly prohibited the use of profanities in public places, it had clearly had a legal basis. Moreover, the purpose of the restriction had been to protect the morals and the rights of others. On the other hand, by demonstrating against Panorama Tbilisi, the applicants had wished to alert the public and the domestic authorities to their concerns regarding the damage that the construction project might cause to the landscape

of the Old Town, as well as to express their disapproval of what they considered to be the authorities' failure to involve society in the decision-making process. The Court felt that the controversial urban development project in the capital was clearly a topic of high public interest, and therefore very strong reasons were required to justify preventing the applicants from expressing their opinions during the demonstration.

As the demonstration had taken place in a public venue, the Court acknowledged that it was first and foremost up to the national authorities to determine how to react to the applicants' conduct. Nevertheless, the video recordings of the circumstances preceding the applicants' arrest showed that the applicants' conduct had been peaceful and passive and that they had not behaved in a manner that was disruptive to ordinary public life. The fact that the authorities had not taken that into due consideration meant that they had disregarded the proportionality requirement under Article 11 § 2 of the Convention.

As regards the slogan on the banners, the Court agreed that the domestic authorities were in the best position to give an opinion on the slogan's compatibility with the linguistic features of the Georgian language and the ethical standards currently held in the country. However, the use of vulgar phrases was not decisive in itself as sometimes such phrases merely served stylistic purposes. The Court considered that the domestic courts had dissociated the vulgar nature of the slogan from its context and apparent goal, by focusing only on the form, whereas Article 10 applied not only to information or ideas that were favourably received or regarded as inoffensive, but also to offensive, disturbing or shocking ones. The slogan had not been used to insult or to denigrate anyone in particular; it had been used as a stylistic tool to express the very high degree of the applicants' disapproval of the construction project. The controversial form of it in itself was no justification for restricting speech in a public demonstration highlighting a matter of considerable public interest.

There had therefore been a violation of Article 11 read in the light of Article 10.

Just satisfaction (Article 41)

The Court held that Georgia was to pay each of the applicants 40 euros (EUR) in respect of pecuniary damage, and EUR 1,000 each in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.