

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF KARCHAVA v. GEORGIA

(Application no. 34790/23)

JUDGMENT

Art 10 (read in light of Art 11) • Freedom of expression • Arrest, 24-hour detention and administrative conviction of solo protester for having set up a tent behind a statue in a public square with the intention to initiate a hunger strike • Applicant's conduct wholly peaceful and concerned a matter of public interest • Impugned measures, taken together, capable of producing a chilling effect despite relatively insignificant nature of the court-imposed penalty of a verbal reprimand • Domestic authorities' failure to provide relevant and sufficient reasons capable of demonstrating the necessity of the impugned interference • Domestic courts' decisions not based "on an acceptable assessment of the relevant facts"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

23 June 2026

FINAL

23/09/2026

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.



In the case of Karchava v. Georgia,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lorraine Schembri Orland*, President*,
Lado Chanturia,
Faris Vehabović,
Ana Maria Guerra Martins,
Sebastian Răduleţu,
András Jakab,
Corinna Wissels*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 34790/23) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Georgian national, Mr Zurab Karchava ("the applicant"), on 15 September 2023;

the decision to give notice to the Georgian Government ("the Government") of the complaints under Articles 10 and 11 of the Convention and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 2 June 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicant's complaint that the interruption of his solo demonstration and his subsequent conviction for an administrative offence amounted to a violation of his right to freedom of expression and peaceful assembly protected by Articles 10 and 11 of the Convention.

THE FACTS

2. The applicant was born in 1983 and lives in Batumi. The applicant was represented by Mr D. Javakhishvili, Mr A. Pataraia and Ms S. Tsiklauri, all of whom are lawyers practising in Tbilisi.

3. The Government were represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice.

4. The facts of the case may be summarised as follows.

5. On 26 December 2022 the applicant, a psychotherapist specialising in children's mental health, among other areas, submitted an advance notification to Batumi City Hall ("the city hall") regarding a planned solo protest. In his notification, the applicant stated that his planned protest, which was to commence on 28 December 2022, would include setting up a tent behind the statue of Memed Abashidze ("the public statue") that was located

in a public square in the vicinity of the Constitutional Court of Georgia and the seat of local government, and initiating a hunger strike. The purpose of the protest, as indicated in the notification, was to denounce the lack of free lunches in public schools in Georgia during the academic year. The applicant emphasised that he would not obstruct public roads or otherwise disrupt public order.

6. On 28 December 2022 the city hall notified the local police of the applicant's planned protest and requested that all necessary legal measures be taken to ensure the maintenance of public order.

7. On the same day, 28 December 2022, the city hall also sent a letter to the applicant, which he received the following day and thus subsequent to the events described in paragraphs 8-13 below. The letter stated that the proposed protest site was part of the area designated for New Year's Eve celebrations and that pyrotechnics could "possibly be used" there. Additionally, the city hall referenced section 11(3) of the Assemblies and Demonstrations Act, which prohibited assemblies or demonstrations from "physically obstruct[ing], degrad[ing] the appearance of, damag[ing] or otherwise harm[ing] any building, structure, monument or memorial of historical, archaeological, architectural or scientific significance." Given the proximity of the planned protest to the public statue, the city hall advised the applicant against pitching a tent at that location. However, it assured him that he remained free to exercise his right to express his views without interference under the Assemblies and Demonstrations Act.

8. Later that day, at approximately 10.00 a.m., as the applicant was attempting to set up a tent, police officers in civilian clothing instructed him to refrain from doing so, allegedly without providing any reasons. As the applicant refused to comply with the police instructions, he was escorted, at around 11.00 a.m., to the nearest police station to be identified. Upon arrival at the station the applicant was granted prompt access to his lawyer and a representative from the Public Defender's Office, without any obstruction or interference. Surveillance footage from the station's outdoor cameras confirmed that the applicant was not subject to any restrictions on his movement, as he was observed standing freely outside the station, smoking in the company of his lawyer and police officers. The applicant spent approximately 30 to 40 minutes at the police station, during which time the officers attempted to persuade him to abandon his plans to protest near the public statue as the area had been designated for New Year's Eve celebrations, which included the potential use of pyrotechnics. He was encouraged to relocate his protest to a more appropriate location instead. The applicant was subsequently allowed to leave the police station and he immediately returned to the protest site near the public statue at around 12.00 noon.

9. Upon the applicant's return to the site, police officers, observing that he was continuing his attempts to pitch the tent, issued further oral warnings

advising him to relocate the tent to an alternative location in order to avoid creating obstacles to preparations for the New Year's Eve celebrations. The applicant refused to comply, citing his right not to be impeded in the exercise of his freedom of assembly. As a result, at approximately 12.45 p.m., the applicant was arrested for disobeying lawful police orders – an administrative offence under Article 173 § 1 of the Code of Administrative Offences. The arrest record, written by the arresting officer, stated:

> "[The applicant] was pitching a tent on the premises of the Constitutional Court during working hours and, having been repeatedly ordered by the police to remove the tent and to stop obstructing the functioning of the Constitutional Court, failed to comply with those lawful orders ..."

10. The applicant's lawyer (see paragraph 8 above), who was present at the scene of the applicant's arrest, submitted a written objection to the arrest record. He observed that it was only in the arrest record that the police, for the first time, invoked the alleged obstruction of the Constitutional Court's functioning as a ground for restricting the applicant's right to freedom of assembly or for justifying his arrest.

11. The arresting police officer also prepared a written report, dated 28 December 2022, detailing the circumstances of the applicant's arrest. According to that document, the applicant had been warned on multiple occasions that pitching a tent at that location could constitute violations of the Assemblies and Demonstrations Act because it was (i) on the premises of the Constitutional Court of Georgia, (ii) in an area designated for the "possible use of pyrotechnics" in preparation for the upcoming New Year's Eve celebrations, and (iii) adjacent to a public statue. The decision to arrest the applicant had been prompted by his failure to comply with the aforementioned police warnings and his refusal to relocate his protest to an alternative location, as suggested by the authorities.

12. The case file includes a video recording of the applicant's arrest and what led up to it, which was filmed by his lawyer. The recording shows the applicant interacting politely with the police. During this interaction, the officers repeatedly requested that the applicant relocate his tent, as the area was allegedly earmarked for use in the municipal New Year's Eve celebrations. The tent was pitched on a green lawn under a palm tree, several metres away from rear side of the public statue. The applicant declined the officers' requests in a courteous yet firm manner. A police officer then informed him that he was under arrest and proceeded to handcuff him.

13. The applicant was initially taken to the nearest police station, where he was granted immediate access to legal counsel. Following a preliminary interview conducted at the station, in the presence of his lawyer, the applicant was transferred to the Batumi Temporary Detention Centre. He was released the following day, on 29 December 2022, having spent nearly 24 hours in detention.

14. On 24 February 2023 an administrative-offence report was compiled by the same police officers who had arrested the applicant on 28 December 2022 (see paragraph 9 above). The report stated that the administrative offence defined in Article 173 § 1 of the Code of Administrative Offences had been committed by the applicant due to his failure to comply with police officers' lawful requests not to pitch his tent. The police officers' requests had been based on three considerations: (i) the area had been designated for New Year's Eve celebrations, which included the potential use of pyrotechnics; (ii) the tent was located within the protected zone surrounding the public statue; and (iii) the tent was pitched within 20 metres of the Constitutional Court building. The case file was subsequently transmitted to the Batumi City Court to serve as the basis for proceedings concerning the alleged administrative offence.

15. In its judgment of 27 February 2023, the Batumi City Court, following an adversarial oral hearing with the participation of both parties, found the applicant guilty of the administrative offence stipulated in Article 173 § 1 of the Code of Administrative Offences. While the judgment briefly reiterated the facts as outlined in the report of 24 February 2023, it lacked specific reasoning assessing the circumstances of the case and omitted to address any of the three grounds advanced by the police in the administrative-offence report (see paragraph 14 above). Instead, the judgment relied on template-like general statements and asserted in a general manner that the applicant's guilt had been established by the evidence in the case file. As regards the sanction, the City Court held that, in the light of the applicant's character and reputation, as well as the absence of any prior misconduct, he should be exempted from punishment and merely issued a reprimand.

16. The applicant appealed against the Batumi City Court's decision, arguing that his non-compliance had stemmed from his belief that the police orders had been unlawful and, therefore, had imposed no legal obligation on him to comply. He argued that he had not been obstructing the functioning of the Constitutional Court because his tent had been located at a considerable distance from the building's entrance, which he supported with reference to the video recording included in the administrative case file (see paragraph 12 above). Nor had he been blocking any public roads or other infrastructure. He maintained that his sole intention had been to sit peacefully and express his opinion by way of his chosen form of protest, in accordance with his right under Article 11 of the Convention. He also rejected as false the police's contention that the spot where he had pitched his tent was part of the area set aside for preparing the New Year's Eve celebrations, stating that the lawn he had selected for his protest was not part of the designated preparation area.

17. By a decision of 1 May 2023, delivered without an oral hearing and by means of written procedure, the Kutaisi Court of Appeal dismissed the applicant's appeal and upheld his conviction under Article 173 § 1 of the

Code of Administrative Offences. Unlike the lower court, the appellate court did engage in a substantive assessment of the specific circumstances of the case. In particular, the court stated that the materials in the case file confirmed that only two grounds had been given by the Batumi City Hall and the police to justify the restriction of the applicant's solo demonstration: (i) the use of the disputed area for New Year's Eve preparations, which included "the possible use of pyrotechnics", and (ii) the applicant's intention to pitch a tent in the vicinity of a protected monument, in contravention of section 11(3) of the Assemblies and Demonstrations Act. The appellate court remained silent on the question of whether or not the applicant's protest had obstructed the functioning of the Constitutional Court.

18. As regards the two aforementioned grounds, the appellate court held that they were legitimate, and that the evidence demonstrated the applicant's refusal to comply with police orders based on those grounds. Consequently, it found that the applicant's conviction for disobeying lawful police orders was justified. The court also concluded that the applicant's arguments were insufficient to establish the unlawfulness of the police orders. Instead, it ruled that the police had acted within their legal authority to prevent public disturbances and to ensure the applicant's safety, and that the applicant had wilfully disobeyed those lawful orders. Nevertheless, considering the minor nature of the offence, the Court of Appeal upheld the lower court's decision to impose only a verbal warning. Overall, the appellate court found that, in the circumstances of the case, the applicant's arrest had been a lawful and proportionate interference with his right to freedom of peaceful assembly.

19. A copy of the Kutaisi Court of Appeal's final decision of 1 May 2023 was delivered to the applicant's address on 15 May 2023.

20. The case file includes an opinion, issued at the applicant's request, by a certified topographic expert on 12 September 2023. That opinion assessed the location where the applicant had pitched his tent on 28 December 2022. The opinion, which was supported by photographic and video footage of the measurement process, determined, among other things, that the tent had been positioned 12 metres to the left of the rear side of the public statue and 25 metres from the Constitutional Court building.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

21. Pursuant to Article 22 of the Code of Administrative Offences, in the case of a minor administrative offense, the offender may be exempted from administrative liability and receive a verbal warning instead.

22. Article 173 § 1 of the Code, as in force at the material time, stipulated that disobeying a lawful instruction or order issued by an on-duty law-enforcement officer, or insulting such an officer, was punishable by a fine

ranging from 2,000 to 3,000 Georgian lari, or by administrative detention for a period of up to 15 days.

23. Sections 2, 9 and 11 of the Assemblies and Demonstrations Act (1997), as in force at the material time, read, in their relevant parts, as follows:

Section 2

"1. This Law governs the exercise of the right, recognised by the Constitution of Georgia, for individuals to assemble publicly and unarmed, whether indoors or outdoors, without prior authorisation.

3. Any limitation on the rights recognised and protected by this Law must ... be prescribed by law[,] necessary for a democratic society[,] applied impartially[,] and proportionate to its objective[, while] ensuring that the benefit derived from the restriction outweighs the harm it inflicts."

Section 9

"5. A court may impose restrictions on an assembly or demonstration held on the territory adjacent to its building, [namely by] preventing it from being held closer than 20 metres from the building, to prevent obstruction of access, interference with the court's operations, or any compromise to its independence and impartiality. Such restrictions shall be determined on a case-by-case basis, considering the specific circumstances [of a case] and the public interest, in accordance with the procedure set forth in section 2(3) of this Law, while preserving the core constitutional right to assembly and demonstration."

Section 11

"3. During an assembly or demonstration it is prohibited to physically obstruct, degrade the appearance of, damage or otherwise harm any building, structure, monument or memorial of historical, archaeological, architectural or scientific significance."

II. INTERNATIONAL MATERIALS

24. The Compilation of the Venice Commission Opinions concerning the freedom of assembly (CDL-PI(2014)0003, revised in July 2014) contains the following relevant information:

"'Freedom of assembly – as elaborated in human rights case law – is viewed as a fundamental democratic right, which should not be interpreted restrictively and which covers all types of peaceful expressive gathering, whether public or private' ...

'A definition of the term "public assembly" should ... usefully focus on traditional criteria such as a certain number of individuals with a local connection and a common expressive purpose' ..."

25. The 2010 OSCE-ODIHR – Venice Commission Guidelines on freedom of peaceful assembly (2nd edition, CDL-AD(2010)020, 9 July 2010) contain the following relevant information:

"For the purposes of the Guidelines, an assembly means the intentional and temporary presence of a number of individuals in a public place for a common expressive purpose.

This definition recognizes that although particular forms of assembly may raise specific regulatory issues, all types of peaceful assembly – both static and moving assemblies, and those which take place on publicly or privately owned premises or enclosed structures – deserve protection. ...

An assembly, by definition, requires the presence of at least two persons. Nonetheless, an individual protester exercising his or her right to freedom of expression, where their physical presence is an integral part of that expression, should also be afforded the same protections as those who gather together as part of an assembly ..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

26. The applicant complained that the interruption of his solo protest by the police and his subsequent conviction for an administrative offence had amounted to a violation of his rights under Articles 10 and 11 of the Convention, which provide as follows:

Article 10

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions ... without interference by public authority and regardless of frontiers ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others ..."

Article 11

"1. Everyone has the right to freedom of peaceful assembly ...

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others ..."

A. Admissibility

27. The Government submitted that the applicant had failed to exhaust effective domestic remedies in respect of his complaints by not instituting civil-law proceedings against the police. In the alternative, they argued that the application was belated within the meaning of Article 35 § 1 of the Convention because the four-month time-limit should be calculated from the date of the applicant's arrest on 28 December 2022.

28. The applicant maintained that the administrative-offence proceedings against him had provided a sufficient forum for raising his complaints and that the time-limit under Article 35 § 1 of the Convention should be

calculated from 15 May 2023, the date on which he had been notified of the final domestic decision in those proceedings (see paragraph 19 above).

29. As regards the exhaustion plea, the Court observes that, given that the applicant's rights under Articles 10 and 11 of the Convention already lay at the core of his defence during the administrative-offence proceedings, he cannot be reproached for not having made use of the additional civil remedy referred to by the Government (see paragraphs 16-18 above and compare, among many others, *Peradze and Others v. Georgia*, no. 5631/16, § 28, 15 December 2022, with further references, and *Mzhavanadze and Rukhadze v. Georgia*, nos. 29760/21 and 33931/21, § 63, 15 July 2025, with further references). Furthermore, the Court reiterates that, in cases such as the present one, the time-limit under Article 35 § 1 of the Convention is calculated not from the moment of an arrest, removal from the site of a demonstration or any other interference by law-enforcement authorities with the immediate exercise of the rights under Articles 10 and 11, but from the moment of the final decision in the relevant domestic judicial proceedings (in addition to the authorities already cited above, also compare *Makarashvili and Others v. Georgia*, nos. 23158/20 and 2 others, §§ 29 and 46-48, 1 September 2022). In the light of the foregoing considerations and given that the present application was lodged on 15 September 2023, that is, within four months of the final domestic decision in the relevant administrative-offence proceedings being notified to the applicant (see paragraph 19 above), both of the Government's objections must be dismissed.

30. The Court further notes that the complaints under Articles 10 and 11 are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' arguments

(a) The applicant

31. The applicant submitted that the choice of location and form of his solo protest had been deliberate and essential for ensuring visibility and communication with the public. He added that the authorities had no right to dictate the manner of his peaceful expression without a lawful basis. He stressed that he had remained more than 20 metres from the Constitutional Court building, that his tent had posed no risk to the public statue, and that the authorities had produced no evidence of planned events, safety concerns or any concrete disruption he had caused. He also argued that at no point had he physically obstructed, degraded the appearance of, damaged or otherwise affected the public statue, as was evident from the video footage. The Government's assertion that a prolonged protest involving a tent could

physically obstruct or degrade the appearance of the public statue (see paragraph 36 below) was vague and unsubstantiated.

32. The applicant maintained that the police had acted without a legal or factual basis. In this connection, he contended that there had been no lawful grounds to order him to relocate or cease his protest, to take him to the police station, or to arrest and prosecute him under Article 173 of the Code of Administrative Offenses. Even assuming that the authorities had pursued legitimate aims, the interference had failed the necessity test as neither the police nor the domestic courts had checked whether the protest had had any actual impact on public order or the functioning of the Constitutional Court. The domestic courts had failed to explain what steps the police had undertaken to verify whether any real danger relating to the use of pyrotechnics had actually existed. The courts had not sought to clarify what the police had meant by the "possible use of pyrotechnics", where such pyrotechnics might have been deployed, what type had been envisaged or by whom they might have been used. No attempt had been made to assess those circumstances.

33. The applicant emphasised that the measures taken had been disproportionate. His protest had been peaceful, non-obstructive and had concerned a matter of public interest, yet the authorities had prevented it from going ahead, removed him from the location, seized his tent, placed him in detention and subjected him to prosecution.

(b) The Government

34. The Government argued that the applicant remained free to express his views elsewhere, that he had not been ordered to stop protesting but only asked to relocate, and that that request had been justified by safety considerations relating to the possible use of pyrotechnics during the New Year's Eve celebrations and because of the proximity of his chosen site to the public statue and the Constitutional Court building. They further maintained that the applicant's initial transfer to the police station had been solely for identification purposes and did not amount to an interference with his freedom of expression or freedom of assembly. The Government submitted that the applicant's subsequent arrest and prosecution under Article 173 of the Code of Administrative Offences did not fall within the scope of Articles 10 and 11 of the Convention, as the manner of protest had contravened domestic law. Relying on the Court's judgment in the case of *Kudrevičius and Others v. Lithuania* ([GC], no. 37553/05, § 92, ECHR 2015), they argued that conduct contrary to public-order regulations was not protected by the Convention provisions invoked.

35. In the alternative, the Government submitted that any interference that had taken place had been prescribed by law. In this connection, they referred to the provisions of the Assemblies and Demonstrations Act restricting activities near monuments and allowing courts to limit assemblies taking

place within 20 metres of court buildings. They argued that the applicant had failed to comply with a lawful police order issued under those provisions, thereby justifying his arrest under Article 173 of the Code of Administrative Offences. The Government further submitted that the measures had pursued legitimate aims, namely ensuring the proper functioning of the Constitutional Court, preventing the appearance of the public statue from being degraded, and safeguarding the applicant's safety in an area that might have been used for pyrotechnic activities connected to the New Year's Eve celebrations.

36. Specifically, they submitted that the proper functioning of public institutions – including, in this case, the Constitutional Court of Georgia – was an essential component of maintaining legal order. Furthermore, a prolonged protest involving the installation of equipment, such as a tent, could not help but physically obstruct or degrade the appearance of monuments of particular social and cultural value, as well as their surrounding area. In the present case, the applicant's notification of his hunger strike had made it appear highly likely that the protest would last several days. Setting up a tent in that location would therefore have physically obstructed or degraded the appearance of the public statue and adversely affected its immediate environment. Finally, and most importantly, camping in an area designated for public New Year's Eve celebrations – which potentially were to include the use of pyrotechnics – had posed a danger to the applicant's life and health.

37. The Government further emphasised that the police had attempted to negotiate with the applicant and had arrested him only as a last resort, and that the domestic courts had ultimately imposed only a verbal warning. On that basis, the Government concluded that the authorities had acted in accordance with Articles 10 and 11 of the Convention and that no violation had occurred.

2. The Court's assessment

(a) Scope of the case

38. Since the applicant neither alleged, nor does the case file suggest, that the authorities restricted a peaceful assembly or prevented him from expressing his views together with others, but instead challenged the interference with his solo protest, the Court considers that Article 10 of the Convention operates as the *lex specialis* in relation to Article 11, which has a broader and more general scope.

39. Furthermore, given that the rights to freedom of expression and freedom of peaceful assembly are closely connected – especially in the context of political debate, where the guarantees under Articles 10 and 11 often complement one another – the Court will examine the complaint under Article 10, while taking into account the general principles developed in the Court's Article 11 case-law (compare *Novikova and Others v. Russia*,

nos. 25501/07 and 4 others, § 91, 26 April 2016, and contrast *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, § 363, 7 February 2017).

(b) General principles

40. The Court recalls that protection of Article 10 extends not only to the substance of the ideas and information expressed but also to the form in which they are conveyed. The right to freedom of expression may include the right for a person to express his or her ideas through his or her conduct. A protest can also constitute an expression of opinion within the meaning of Article 10 (see *Gough v. the United Kingdom*, no. 49327/11, § 149, 28 October 2014, with further references therein, and *Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, § 28, ECHR 1999-VIII).

41. The Court reiterates that in order to fall within the scope of Article 10 or 11 of the Convention, "interference" with the exercise of the freedom of peaceful assembly or the freedom of expression does not need to amount to an outright ban but can consist in various other measures taken by the authorities. The terms "formalities, conditions, restrictions [and] penalties" in Article 10 § 2 must be interpreted as including, for instance, measures taken before or during an assembly and those, such as punitive measures, taken afterwards (see *Novikova and Others*, cited above, § 106).

42. The Court further reiterates that it is important for demonstrators, as actors in the democratic process, to abide by the rules governing that process by complying with the regulations in force (see *Oya Ataman v. Turkey*, no. 74552/01, § 38, ECHR 2006-XIV, and *Barraco v. France*, no. 31684/05, § 44, 5 March 2009). The principle of discretionary prosecution leaves States considerable room for manoeuvre in deciding whether or not to institute proceedings against someone thought to have committed an offence (see *Pentikäinen v. Finland* [GC], no. 11882/10, § 110, ECHR 2015). In addition, where the relevant regulations serve as a basis for prosecuting for a "criminal offence" and/or imposing a "penalty", within the meanings of Articles 6 and 7 of the Convention, in relation to the exercise of one's rights under Articles 10 or 11 (see *Kasparov and Others v. Russia*, no. 21613/07, §§ 39-45, 3 October 2013), the relevant offences and penalties must be clearly defined by law.

43. In determining whether the interference was "prescribed by law", the Court reiterates that a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the interested party – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. While certainty is highly desirable, it is, given the abstract character of criminal norms, impossible to attain absolute precision. Accordingly, many laws are inevitably couched in terms which, to a greater or lesser extent, are general and whose interpretation and application are questions of practice. The role of adjudication vested in the national courts is precisely to dissipate such

interpretational doubts as may remain; the Court's power to review compliance with domestic law is thus limited, as it is primarily for the national authorities, notably the courts, to interpret and apply domestic law (see *Kudrevičius and Others*, cited above, §§ 109 and 110).

44. As regards specific legitimate aims the authorities seek to achieve by interfering with rights under Articles 10 § 1 and 11 § 1, the Court reiterates that the aim of "prevention of crime" in the sense of putting an end to punishable unlawful conduct might be relevant when the police decide to terminate a demonstration, in so far as such unlawful conduct constitutes a criminal offence or, as in the present case, an administrative offence (compare *Novikova and Others*, cited above, § 140). The aim of the "prevention of disorder" may likewise be relevant in the context of subsequent prosecution for an administrative offence (ibid., § 148).

45. The general principles concerning the necessity of an interference with freedom of expression have been reiterated in various cases, including that of *Animal Defenders International v. the United Kingdom* [GC] (no. 48876/08, § 100, ECHR 2013 (extracts)):

> "(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'. As set forth in Article 10, this freedom is subject to exceptions, which ... must, however, be construed strictly, and the need for any restrictions must be established convincingly ...
>
> (ii) The adjective 'necessary', within the meaning of Article 10 § 2, implies the existence of a 'pressing social need'. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a 'restriction' is reconcilable with freedom of expression as protected by Article 10.
>
> (iii) The Court's task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation. This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole and determine whether it was 'proportionate to the legitimate aim pursued' and whether the reasons adduced by the national authorities to justify it are 'relevant and sufficient'... In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts ..."

(c) Application of these principles to the circumstances of the present case

(i) Whether there has been an interference which was prescribed by law and pursued a legitimate aim

46. The Court has no doubt that the applicant's administrative arrest, which resulted in his removal from the scene of the solo demonstration, and his subsequent conviction for an administrative offence amounted to an interference with his right to freedom of expression, interpreted in the light of his right to freedom of assembly (compare, among other authorities in which deprivation of liberty constituted an important aspect of interference under Articles 10 and 11, *Peradze and Others*, cited above, § 38; *Kasparov and Others*, cited above, § 85; and *Yartsev v. Russia*, no. 16683/17, § 28, 20 July 2021).

47. As to the lawfulness of the measures constituting the interference, the Court reiterates that the domestic legal framework governing the conduct of demonstrations – as a general body of rules – together with the more specific provisions on administrative-offence proceedings, including Article 173 § 1 of the Code of Administrative Offences, which formed the basis for the applicant's arrest and conviction in the present case, has already been found to comply fully with the "lawfulness" requirement under Article 10 § 2 and Article 11 § 2 of the Convention (see *Makarashvili and Others*, cited above, §§ 30-42 and 95-96, and *Chkhartishvili v. Georgia*, no. 31349/20, §§ 24-28 and 54, 11 May 2023). The Court does not see any reason to reach a different conclusion in the present case, as the applicant has not advanced any new arguments capable of casting doubt on the compliance with the "quality of the law" requirements.

48. As to the applicant's objections concerning the domestic courts' allegedly erroneous assessment of the facts, particularly his claim that he had been positioned more than 20 metres from the court building and that his tent had posed no risk to the public statue (see paragraph 31 above), the Court considers that such matters – specifically, whether the domestic decisions were based on an "acceptable assessment of the relevant facts" – normally form part of its analysis of the "necessity" of the interference (compare, among others, *Russ v. Germany*, no. 44241/20, § 50, 20 May 2025, with further references).

49. The Court also considers that the applicant's removal from the solo demonstration venue, his arrest and his subsequent prosecution for the administrative offence can be considered to have pursued the legitimate aims of the "prevention of crime" and the "prevention of disorder" within the meaning of Article 10 § 2 of the Convention.

(ii) Whether the interference was necessary in a democratic society

50. The Court observes that, by organising a solo demonstration in the form of a hunger strike in a public square located near the Constitutional

Court and the seat of the local government, the applicant sought to draw the attention of both the public and the competent domestic authorities to his concerns, expressed in his capacity as a children's health professional, regarding the lack of free lunches provided in public schools in the country. That being so, the Court has no doubt that the applicant's expressive conduct concerned a matter of public interest. Consequently, there must be particularly strong reasons to justify any restriction on his freedom to express his views during the solo demonstration (compare *Peradze and Others*, cited above, § 41, and *Bumbeș v. Romania*, no. 18079/15, § 92, 3 May 2022).

51. The Court further observes that the Government relied on three grounds to justify the interference: (i) the need to comply with the statutory limitations on assemblies within 20 metres of the Constitutional Court building; (ii) the need to protect the public statue; and (iii) the need to ensure the applicant's safety in view of the possible use of pyrotechnics on New Year's Eve.

52. As regards the first ground, namely compliance with the limitations on assemblies within 20 metres of court buildings, the Court notes that, although there are indications that the police may initially have relied on that ground during their on-site discussions with the applicant (see paragraph 9 above), the domestic courts did not refer to it at all in their reasoning (see paragraphs 15 and 17-18 above). In these circumstances, and given that the domestic courts at both instances failed to elucidate either the factual accuracy of that allegation – notably in the light of the expert topographic report concluding that the demonstration site was more than 20 metres from the court (see paragraph 20 above) – or its legal relevance, the absence of reasoning on this specific factual issue prevents the Court, whose role is not to substitute its own assessment for that of the domestic courts, from accepting that ground as a "relevant" and "sufficient" justification for interfering with the applicant's rights under Articles 10 and 11 of the Convention (compare, for instance, *Terentyev v. Russia*, no. 25147/09, §§ 22-24, 26 January 2017, with further references, *Otegi Mondragon v. Spain*, no. 2034/07, § 52, ECHR 2011, and *Kasparov and Others*, cited above, § 92, as regards the importance of reasoning being given by domestic courts to allow the Court to understand the rationale for their decisions).

53. As to the second ground, namely the alleged risk that the applicant's solo demonstration posed to the public statue, the Court reiterates that public monuments are frequently physically unique and form part of a society's cultural heritage, and that measures, including proportionate sanctions, designed to dissuade acts which can destroy them or damage their physical appearance may therefore be regarded as "necessary in a democratic society" (see *Handzhiyski v. Bulgaria*, no. 10783/14, § 53, 6 April 2021). In the present case, however, the applicant neither engaged in violent conduct nor displayed any intention to damage, destroy, impair, or even temporarily alter the monument. He merely pitched a tent on the lawn adjacent to the statue,

several metres away – twelve metres, according to the topographic expert report (see paragraph 20 above) – from its rear side. Such conduct cannot reasonably be regarded as posing any risk to the monument's physical integrity, nor could it have been perceived as harmful or disrespectful by onlookers. By contrast, the applicant's wholly peaceful conduct stands markedly apart from cases such as *Handzhiyski* (cited above, §§ 54-58), where placing Santa Claus accessories on a political leader's statue was treated as symbolic expression within the scope of Article 10, *Murat Vural v. Turkey* (no. 9540/07, §§ 57-68, 21 October 2014), in which the act of pouring paint on a statue of a historic figure was not equated with violent conduct, or *Shvydka v. Ukraine* (no. 17888/12, §§ 37-42, 30 October 2014), where detaching a ribbon from a wreath laid by the Ukrainian president was assessed under the proportionality test of Article 10. Indeed, the Court reiterates that where demonstrations do not result in acts of violence, the public authorities must show a certain degree of tolerance (see *Kasparov and Others v. Russia (no. 2)*, no. 51988/07, § 29, 13 December 2016). Of further significance is the fact that the domestic courts did not themselves sufficiently examine whether the applicant's actual conduct or intention, assessed in the light of the specific circumstances, posed any genuine risk to the public monument. In the absence of any such proper assessment by the domestic courts, the Court cannot regard the domestic decisions as providing "relevant" and "sufficient" reasons on this point either.

54. As regards the third ground, namely the danger allegedly posed to the applicant himself by the "possible use of pyrotechnics" during the New Year's Eve celebrations, the Court reiterates that it approaches with particular caution arguments advanced by domestic authorities that rely on "possible" or "potential" risks to justify interferences with the rights guaranteed under Articles 10 and 11 of the Convention. In this connection, the Court has previously emphasised the importance of substantiating alleged risks by reference to concrete evidence and of avoiding reliance on general or speculative assumptions (see, for example, *Lashmankin and Others*, cited above, §§ 424-25; *Balçık and Others v. Turkey*, no. 25/02, § 51, 29 November 2007; and *Kasparov and Others*, cited above, §§ 92-94).

55. In the present case, the domestic courts failed to verify, through the relevant authorities responsible for organising the end-of-year festivities, whether the location chosen by the applicant for his solo protest had in fact been formally designated, with reference to urban maps, administrative decisions or any other documentary evidence, as an area intended for the use of pyrotechnics. In the absence of such necessary factual findings, the Court is not persuaded that the alleged threat linked to the "potential use of pyrotechnics" was real and sufficiently established. Even assuming that such a risk existed, the Court observes that there were four days between the commencement of the applicant's solo protest on 28 December and the New Year's Eve celebrations on 31 December. It therefore remains unclear why

the authorities could not have tolerated the applicant's presence at the location, at least for that interim period, which would have allowed him to convey his message on the matter of public interest.

56. As regards the proportionality of the sanction, the Court observes that the interference with the applicant's rights to freedom of expression and peaceful assembly, exercised in the context of a legitimate public debate, was not limited to the judicially imposed penalty of a verbal reprimand, which was admittedly minor. The interference also stemmed from the conduct of the police at the demonstration site, where the applicant was forcibly removed from his solo protest location, arrested and detained for 24 hours (see paragraph 13 above). The Court considers that such measures, taken together, were capable of producing a chilling effect on the applicant's exercise of his freedom of expression and assembly, notwithstanding the relatively insignificant nature of the court penalty imposed (compare, for example, *Peradze and Others*, cited above, § 46, and, in the context of Article 11, *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 133, 15 November 2018).

57. Having regard to the foregoing considerations, and in particular to the domestic courts' failure to assess several key aspects of the applicant's solo protest, the Court concludes that the domestic authorities did not provide sufficient and relevant reasons capable of demonstrating the necessity of the interference. Therefore, it cannot be said that the domestic courts based their decisions "on an acceptable assessment of the relevant facts" (see *Peradze and Others*, cited above, § 47, and *Terentyev*, cited above, § 24).

58. There has accordingly been a violation of Article 10 of the Convention, read in the light of Article 11.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

60. The applicant claimed 1,000 euros (EUR) in respect of non-pecuniary damage. He did not submit a claim in respect of costs and expenses

61. The Government submitted that the sum claimed was excessive.

62. The Court awards the applicant EUR 1,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention read in the light of Article 11;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,000 (one thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski Deputy Registrar	Lorraine Schembri Orland President