

**dr Robert Tabaszewski**

The John Paul II Catholic University of Lublin

<https://orcid.org/0000-0002-7737-0056>

<https://doi.org/10.21697/2026.15.1.07>

---

**COMMENTS ON THE JUDGMENT OF THE GRAND  
CHAMBER OF THE EUROPEAN COURT OF HUMAN  
RIGHTS IN *TSAAVA AND OTHERS V. GEORGIA* ON  
11 DECEMBER 2025. KINETIC IMPACT PROJECTILES,  
JOURNALISTIC PROTECTION AND EFFECTIVE  
INVESTIGATIONS IN CRISIS SITUATIONS<sup>1</sup>**

Received: 2026-03-07; Revised: 2026-03-30; Accepted: 2026-04-13;

**Abstract:** The commentary addresses the landmark judgment of the European Court of Human Rights (ECtHR) in *Tsaava and Others v. Georgia*, delivered on 11 December 2025. It demonstrates that the judgment represents a significant step in the progressive proceduralisation of Article 3 of the European Convention on Human Rights (ECHR), while simultaneously highlighting the conflict and inherent tension between the obligation to protect human rights and the imperative of public security. The commentary contends that the central focus of the Court's reasoning lies in the state's positive obligations to establish minimum regulatory standards governing the use of kinetic impact projectiles by the police in public assembly management operations. It provides a critical analysis of the Court's findings regarding protective measures for journalists and the duty to conduct effective investigations into suspected misconduct by police officers. Finally, the commentary examines the broader implications of the judgment for state obligations in managing assemblies during crisis situations in the post-COVID era.

**Keywords:** use of force; freedom of assembly; kinetic impact projectiles; journalistic protection; post-COVID era; crisis situations

---

---

<sup>1</sup> This research was funded by the National Science Centre, Poland, grant number 2021/43/D/HS5/01094.

## 1. Introduction

This commentary concerns the judgment of the Grand Chamber (GC) of the European Court of Human Rights (ECtHR) in *Tsaava and Others v. Georgia*, delivered on 11 December 2025,<sup>2</sup> following the referral of the case from the Chamber judgment of 7 May 2024.<sup>3</sup> The judgment has been classified in the HUDOC database as a key case.<sup>4</sup> It constitutes an important point of reference for all states regarding the obligation to establish minimum regulatory requirements for the use of kinetic impact projectiles (KIPs), a particularly dangerous form of coercive force used by the police in public assembly management operations. The GC judgment further clarifies the scope of obligations under the European Convention on Human Rights (ECHR) relating to preventive measures for the protection of journalists<sup>5</sup> and to investigative procedures<sup>6</sup> arising under Articles 3, 10-11, and, in part, 46 of the ECHR,<sup>7</sup> Two dissenting opinions were appended to the judgment,<sup>8</sup> highlighting the significance of the Court's evolving approach to the procedural dimensions of protection under the ECHR, particularly in relation to Articles 13 and 41 thereof.

---

<sup>2</sup> *Tsaava and Others v. Georgia*, applications nos. 13186/20 et al., judgment (Grand Chamber) of 11 December 2025, ECHR; see also: "Dispersal of Demonstration Using Kinetic Impact Projectiles: Injury of Journalists and Protesters," case note, *ECHR Case Law*, 11 December 2025. Accessed 15 February 2026. <https://www.echrcaselaw.com/en/echr-decisions/dispersal-of-demonstration-using-kinetic-impact-projectiles-injury-of-journalists-and-protesters-violation-of-articles-3-10-and-11-echr>.

<sup>3</sup> *Tsaava and Others v. Georgia*, applications nos. 13186/20 and four others, judgment (Fifth Section) of 7 May 2024, ECHR.

<sup>4</sup> <https://hudoc.echr.coe.int>.

<sup>5</sup> Mik, "Standardy Rady Europy", 94-96.

<sup>6</sup> European Court of Human Rights, *Unjustified Use of Force and Rubber Bullets in Dispersal of Protest in Front of Georgian Parliament*, Press Release issued by the Registrar of the Court, ECHR 291 (2025), 11 December 2025. On the issue of positive obligations, see: Mik, "Teoria obowiązków pozytywnych państw-stron", 257-276.

<sup>7</sup> Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), ETS no. 5 (Rome, 4 November 1950), as amended by Protocols Nos. 1-16, entered into force 3 September 1953, accessed 10 February 2025. [https://www.echr.coe.int/documents/d/echr/Convention\\_ENG](https://www.echr.coe.int/documents/d/echr/Convention_ENG).

<sup>8</sup> Partly dissenting opinion of Judge Serghides, appended to *Tsaava and Others v. Georgia*, applications nos. 13186/20 and four others, judgment (Grand Chamber) of 11 December 2025, ECHR; statement of partial dissent by Judge Eicke, appended to *Tsaava and Others v. Georgia*, applications nos. 13186/20 and four others, judgment (Grand Chamber) of 11 December 2025, ECHR.

This commentary seeks to address whether the state's obligation to conduct effective investigations is emerging as a new paradigm of human rights protection in crisis situations. It advances the thesis that the judgment constitutes an important step in the progressive proceduralisation of Article 3 of the ECHR, while simultaneously revealing a conflict and inherent tension between the state's duty to protect human rights and the imperative of public security.<sup>9</sup> To assess the existence of such friction between these two values – particularly observable in the post-COVID model of human rights protection – the analysis employs the dogmatic method, the comparative method, and a review of existing Strasbourg case law.

## 2. Factual Background

The proceedings in *Tsaava and Others v. Georgia* concerned the use of force by public authorities during the dispersal of mass assemblies held in Tbilisi, the capital of Georgia, on 20-21 June 2019. These events became known as 'Gavrilov's Night'.<sup>10</sup> The immediate trigger for the tensions and ensuing protests was the fact that Sergei Gavrilov, a prominent deputy of the Russian State Duma, occupied the seat of the Chairperson of the Georgian Parliament and delivered a speech in Russian.<sup>11</sup> The incident occurred during a session of the Interparliamentary Assembly on Orthodoxy held in Tbilisi. The presence of the Russian deputy, seated in place of Irakli Kobakhidze, then Speaker of the Georgian Parliament, provoked protests not only in Tbilisi but also in Batumi and Gori.<sup>12</sup> The act was perceived as a form of symbolic domination by a representative of a hostile state occupying approximately 20% of Georgian

---

<sup>9</sup> Reidy, *The Prohibition of Torture: A Guide to the Implementation of Article 3 of the European Convention on Human Rights*, 36-38.

<sup>10</sup> Khoshtaria and Pfeilschifter, "Protest Attitudes and Protest Behaviour", 14; Tolordava, "From 'Foreign Agents' to 'LGBT Propagandists'", 14; Mijalska and Kardaś, "The Basis of Social Protests in Georgia", 7-26.

<sup>11</sup> Human Rights Center "Empathy" (RCT/EMPATHY), *An Urgent Need or a Punitive Operation? Anti-Occupation Protest of 20 June 2019 and the Use of Law Enforcement Equipment in Georgia – An Urgent Action or a Punitive Special Operation?* (Tbilisi, 2021), 5.

<sup>12</sup> "Russian MP's Appearance in Georgian Parliament Sparks Protests across Georgia", OC Media, 27 June 2019, <https://oc-media.org/russian-mp-s-appearance-in-georgian-parliament-sparks-protests-across-georgia>; Maksym Kacewicz, "Tbilisi: kolejna odsłona niedokończonych rewolucji", Belsat, 25 June 2019, <https://www.belsat.eu/pl/news/tbilisi-kolejna-odslona-serii-niedokonczonej-rewolucji>.

territory.<sup>13</sup> These events unfolded against a backdrop of existing political tensions linked to a governmental crisis and post-electoral disputes.<sup>14</sup>

In response to what was perceived as governmental inaction, the opposition organised demonstrations in Tbilisi, attended by approximately 12,000 participants. Although initially peaceful, the protests intensified over the following days.<sup>15</sup> A segment of demonstrators engaged in offensive and confrontational conduct towards the police, attempting to force entry into the Parliament building.<sup>16</sup> Notably, a significant proportion of those assembled remained passive or were situated at a distance from the immediate clashes.<sup>17</sup> Nevertheless, the Georgian authorities considered the situation a threat to public order and to the security of state institutions and judged that the measures previously employed by the police were disproportionate to the risks posed by the demonstrators.<sup>18</sup>

The protesters, including the applicants, offered active resistance.<sup>19</sup> Incidents of violence against police officers were reported, including the seizure of police equipment and the throwing of objects. In response, the police deployed tear gas and rubber bullets, classified in the proceedings as KIPs. As a result, at least two individuals sustained severe eye injuries resulting in loss of sight. Thanks to live broadcasts by journalists, images of bloodied faces were transmitted by television stations worldwide. The use of force by the police, combined with emerging media reports suggesting abuses of authority, further escalated tensions.<sup>20</sup> In total, more than 240 individuals were injured during the protests, including nearly 80 police officers and 40 journalists.<sup>21</sup> Video recordings and journalistic accounts indicated that the measures employed by the police affected both individuals engaged in confrontational conduct and those who had not participated in violent acts.<sup>22</sup> Approximately 300 demonstrators were detained on the first day, and 342 individuals

---

<sup>13</sup> Thousands clash with police as protesters try to storm Georgian parliament (2019), [www.ocmedia.org/thousands-clash-with-police-as-protesters-try-to-storm-georgian-parliament/](http://www.ocmedia.org/thousands-clash-with-police-as-protesters-try-to-storm-georgian-parliament/), 27.06.2019.

<sup>14</sup> Wojtasiewicz, "Gruzini protestują przeciwko Rosji".

<sup>15</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 6.

<sup>16</sup> Mijalska and Kardaś, "The Basis of Social Protests in Georgia", 18.

<sup>17</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 5-7.

<sup>18</sup> Mijalska, Kardaś, "The Basis of Social Protests in Georgia", 19.

<sup>19</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 5-7.

<sup>20</sup> Mijalska, Kardaś, "The Basis of Social Protests in Georgia", 21.

<sup>21</sup> Tolordava, "From 'Foreign Agents' to 'LGBT Propagandists'", 4.

<sup>22</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 6.

were ultimately arrested. The demonstrations subsided only after 24 June 2019, when the authorities' announced changes to the country's electoral system.

Shortly after the protests, on 26 June 2019, Nika Melia, a Member of Parliament and opposition leader regarded as one of the organisers of the demonstrations, was stripped of parliamentary immunity and arrested. Criminal proceedings were instituted against him on charges of organising, directing, or participating in mass violence during the protests of 20-21 June 2019.<sup>23</sup> On 4 July 2019, the Georgian prosecution authorities additionally initiated *ex officio* proceedings against him on suspicion of attempting a coup d'état.<sup>24</sup> Parallel *ex officio* investigations were opened into possible abuses of authority by police officers involved in the suppression of the demonstrations.

Separate allegations concerned interference by police representatives with the freedom of journalistic activity. During the course of the investigations, substantial evidence was collected.<sup>25</sup> At the same time, significant evidential challenges were identified, including the inability to identify individual officers wearing face coverings, the absence of identification markings, and limitations related to the quality of video recordings and medical documentation submitted by applicant journalists.<sup>26</sup> Ultimately, charges were brought against only three police officers, while disciplinary and internal proceedings were conducted within the Ministry of Internal Affairs. All proceedings were discontinued following the Amnesty Act of 7 September 2024, which in practice precluded the criminal accountability of the officers responsible for the suppression of the demonstrations.<sup>27</sup>

### 3. The Judgment of the Grand Chamber

Proceedings were brought before the ECHR by a total of 26 applicants. The applications were lodged between 29 February 2020 and 4 August

---

<sup>23</sup> Civil.ge, "Ex-PM Gakharia Charged in Absentia over 'Gavrilov's Night,' Chorchana Tensions", *Civil Georgia*, [data publikacji], <https://civil.ge/>.

<sup>24</sup> Civil.ge, "Prosecutors Charge Nika Melia over June 20-21 Protests", 26 June 2019, <https://civil.ge/archives/310437>.

<sup>25</sup> Mijalska, Kardaś, "The Basis of Social Protests in Georgia", 19.

<sup>26</sup> Human Rights Center "Empathy, An Urgent Need or a Punitive Operation?", 22-54.

<sup>27</sup> Parliament of Georgia, Law on Amnesty, adopted 7 September 2021, <https://parliament.ge/en/media/news/parlamentma-amnistiis-sheesakheb-kanonproekti-mesame-mosmenit-miigho>.

2021. The applicants were either active participants in the protest or journalists reporting on the demonstration.<sup>28</sup> Three of the five applications concerned individuals covering the protest in their capacity as media representatives (*Tsaava and Kmuzov v. Georgia*;<sup>29</sup> *Svanadze v. Georgia*,<sup>30</sup> *Baghashvili and Others v. Georgia*<sup>31</sup>). In one of these cases, the applicant was a journalist holding parliamentary accreditation. The remaining two applications (*Kurdvanidze and Others v. Georgia*;<sup>32</sup> *Berikashvili v. Georgia*<sup>33</sup>) were brought by participants in the demonstrations.<sup>34</sup> In the latter group, one applicant was not recognised as a journalist although he had filmed the events on a telephone. Furthermore, one applicant was not recognised as having participated in the demonstration.<sup>35</sup> Pursuant to Rule 42 of the Rules of Court,<sup>36</sup> the applications were consolidated for examination by the Fifth Section of the ECtHR.

The largest number of applications was submitted by media representatives. Three were lodged by individuals holding parliamentary accreditation, primarily journalists, camera operators, and photojournalists.<sup>37</sup> However, only some of the individuals possessing video recordings and reports were formally acting as photojournalists, camera operators, or reporters documenting the events and the conduct of police officers. Others did not hold press accreditation or display visible press markings. The journalists in particular alleged that the public authorities had used excessive force, resulting in injuries, including through the deployment of KIPs.<sup>38</sup> The second group of applicants consisted of participants in the demonstrations who sustained physical injuries during the dispersal

---

<sup>28</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 6-7.

<sup>29</sup> Application no. 13186/20.

<sup>30</sup> Application no. 16757/20.

<sup>31</sup> Application no. 20129/21.

<sup>32</sup> Application no. 20175/21.

<sup>33</sup> Application no. 39382/21.

<sup>34</sup> In the Court's view, they 'were reporting on the demonstration in their capacity as journalists, camera operators and/or photographers'. See: *Tsaava and Others v. Georgia (GC)*, para. 36.

<sup>35</sup> This concerned the eighth applicant in application no. 20175/21, who went to the scene of the incident to look for his brother-in-law and subsequently sustained physical injuries near the Parliament. See: *Tsaava and Others v. Georgia*, para. 92.

<sup>36</sup> *Rules of Court*, Registry of the European Court of Human Rights, Strasbourg, 15 September 2025, [https://www.echr.coe.int/Documents/Rules\\_Court\\_ENG.pdf](https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf) (accessed 10 February 2026) (RoC).

<sup>37</sup> *Tsaava and Others v. Georgia*, applications nos. 13186/20, 16757/20 and 20129/21, 11 December 2025 (HUDOC 001-247738).

<sup>38</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 69-73.

of the protests by police officers. This group included individuals who claimed they had not engaged in violent conduct, as well as applicants against whom coercive measures had been applied and who had been subjected to preventive detention.

All applicants contended that the Georgian authorities had unjustifiably dispersed the assembly, asserting that the situation did not in fact threaten public order or the security of state institutions.<sup>39</sup> They further argued that no effective investigation had been conducted following the events and that those responsible had not been held accountable.<sup>40</sup> The applicants relied on Article 3 of the ECHR (prohibition of torture and inhuman or degrading treatment), Article 10 of the ECHR (freedom of expression), Article 11 of the ECHR (freedom of peaceful assembly and association), and Article 13 of the ECHR (right to an effective remedy). Some applicants additionally alleged a violation of Article 38 of the ECHR, concerning the obligation to furnish the Court with all necessary facilities for the examination of the case.

In its judgment of 7 May 2024, the Chamber of the ECtHR found a violation of the Convention. It unanimously held that there had been a violation of the procedural aspect of Article 3 of the ECHR in respect of 24 of the 26 applicants, concluding that Georgia had failed to conduct an effective, thorough, and impartial investigation into the use of force. By six votes to one, however, the Chamber declined to rule on the substantive aspect of Article 3 of the ECHR and refrained from examining the admissibility and merits of the complaints under Articles 10 and 11 of the ECHR (freedom of expression and freedom of assembly), in view of ongoing or defective domestic proceedings. Importantly, the Chamber held that there was no need to examine the complaint under Article 13 of the ECHR. Consequently, several issues central to the applicants' claims remained unresolved. On 23 September 2024, at the request of the applicants, the case was referred to the Grand Chamber (GC).

In its judgment of 11 December 2025, delivered pursuant to Article 43 of the ECHR, the GC addressed the complaints not examined by the Chamber.<sup>41</sup> In particular, with regard to Article 3 of the ECHR, it

---

<sup>39</sup> Mijalska, Kardaś, "The Basis of Social Protests in Georgia", 19.

<sup>40</sup> Human Rights Center "Empathy, *An Urgent Need or a Punitive Operation?*", 68.

<sup>41</sup> European Court of Human Rights, "Unjustified Use of Force and Rubber Bullets in Dispersal of Protest in Front of Georgian Parliament", press release issued by the Registrar of the Court, ECHR 291 (2025), 11 December 2025.

examined both the substantive and procedural aspects of the provision. The GC found ‘a violation of both aspects of Article 3 of the ECHR with respect to 24 of the 26 applicants. The Court thus identified two distinct violations of Article 3 of the ECHR: one relating to the use of excessive force and the other to the failure of the authorities to conduct an effective investigation into that use of force. Notably, the GC significantly expanded the interpretation and application of Article 3 of the ECHR by articulating additional substantive and procedural components of protection.<sup>42</sup>

Unlike the Chamber in 2024, the GC further found a violation of ‘Article 10 of the ECHR (freedom of expression) in respect of 14 applicants and a violation of Article 11 of the ECHR (freedom of assembly and association) in respect of 11 applicants.’ Its reasoning focused on Article 10 of the ECHR read in conjunction with Article 11 of the ECHR. The GC emphasised that Article 10 of the ECHR imposes a positive obligation on states to establish an effective system for the protection of journalists, particularly in the context of protests and demonstrations, in accordance with the Council of Europe’s standards. At the same time, it found ‘no violation of Article 38 of the ECHR (the obligation to furnish all necessary facilities during the examination of the case)’. Moreover, the GC relied on Article 46 of the ECHR, indicating the necessity of adopting ‘both individual and general measures’. Such measures were to be undertaken by the Georgian authorities, in particular with regard to the regulation of KIPs and the implementation of appropriate safeguards governing their proper use.<sup>43</sup> The ECtHR awarded pecuniary damages of €85,000 to each of the two applicants (Kurdovanidze and Chankseliani) and €75,000 to each of the other two (Gomuri and Sulashvili). It further awarded non-pecuniary damages ranging from €5,000 to €30,000 per applicant, depending on the severity of the injuries sustained, as well as costs and expenses in the amount of €38,414.99 to the applicants in two of the joined applications.<sup>44</sup>

---

<sup>42</sup> *ECHR ruling: Georgia violated rights of protesters and journalists with CCWs*, INCLO, 16 December 2025, <https://inclo.net/latest/expert-opinions/echr-ruling-georgia-violated-rights-of-protesters-and-journalists-with-ccws/>.

<sup>43</sup> *Tsaava and Others v. Georgia* (GC), paras 462-466.

<sup>44</sup> *Tsaava and Others v. Georgia* (GC), paras 398-429.

## 4. Commentary and Assessment

In the context of the permissible use of force, the ECtHR, for the first time, precisely defined the minimum normative standard for the use of KIPs, recognising them as a category of weapon occupying a high position on the scale of coercive force.<sup>45</sup> At the core of the Court's reasoning is the state's positive duty to establish and maintain an up-to-date normative and operational framework governing the use of dangerous coercive measures, including KIPs.<sup>46</sup> Further critical assessment is warranted regarding those parts of the judgment that address, respectively: (1) the systematisation of protective measures afforded to actors engaged in media reporting; (2) the state's obligation to ensure the conduct of effective investigations capable of preventing impunity for police officers, as a key mechanism of human rights protection; and (3) the articulation of a new approach to the sustainable reconfiguration of the relationship between public security and human rights, in the context of increased tolerance for 'extra precautionary measures', including safeguards for the rights of detained persons.

### 4.1. Kinetic Impact Projectiles

Drawing on the inter-American human rights system, the Court held that no bright line can be drawn between lethal and non-lethal weapons.<sup>47</sup> KIPs are capable of causing death or serious injury and therefore require detailed safeguards. Unlike in previous judgments,<sup>48</sup> where the Court merely flagged the problem of classifying KIPs, it here unequivocally affirmed the state's obligation to establish a standard governing the admissibility of their use as a crowd-control measure in exceptional

---

<sup>45</sup> Machowicz and Tabaszewski, "Inter-State Application", 178.

<sup>46</sup> Cf. OHCHR, *Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement* (2020); UN Human Rights Committee, General Comment No. 37 (2020); IACHR, *Protest and Human Rights* (2019).

<sup>47</sup> Inter-American Commission on Human Rights, Office of the Special Rapporteur for Freedom of Expression, *Protest and Human Rights: Standards on the Use of Force by Law Enforcement Officials*, OEA/Ser.L/V/II, CIDH/RELE/INF.22/19 (2019), paras 120-122 and 125.

<sup>48</sup> See: *Kılıcı v. Turkey*, no. 32738/11, judgment of 27 November 2018, ECHR; *Geylani and Others v. Türkiye*, no. 10443/12, judgment of 12 September 2023, ECHR; *İşık v. Türkiye*, no. 42202/20, judgment of 8 October 2024; *Kurdovanidze and Others v. Georgia*, no. 18768/10, ECHR, judgment of 10 November 2022; *Kathleen Stewart v. the United Kingdom*, no. 10044/82, decision of 10 July 1984, ECHR.

circumstances.<sup>49</sup> Referring to standards developed under the universal human rights system, the Court held that non-lethal coercive measures must be accompanied by appropriate rules and precautions. This implies that 'States must have in place rules and safeguards ensuring that, if kinetic impact projectiles are deployed by the police during a demonstration, their use is appropriately circumscribed'.<sup>50</sup>

Against the background of other ECtHR judgments concerning law-enforcement intervention during demonstrations and riot dispersals – particularly the line of reasoning developed since *Kathleen Stewart v. the UK*<sup>51</sup> – the Court also addressed the operational standard for the use of KIPs. It determined that such measures must be considered *ultima ratio*<sup>52</sup> due to the potential risk of serious injury or death to participants in protests and public assemblies. The measures employed must be strictly necessary<sup>53</sup> and 'deployed only in a targeted manner, rather than as a means of general crowd control'.<sup>54</sup> Their use must comply with the principle of minimising 'the risk to the targeted person's life and health'.<sup>55</sup> The Court emphasised that KIPs should be deployed in a targeted manner, meaning they cannot be used for general 'crowd-clearing'.

In the present case, the ECtHR found flagrant violations resulting in health disorders and life-threatening risks for demonstrators. It noted that 'officers often fired these projectiles in such a way that they struck people in the head and upper body'. Furthermore, the Court highlighted systemic operational deficiencies in the police response to the protests outside Parliament, including the absence of warnings, no clear dispersal order, no chain of command, and inadequate operational training for

---

<sup>49</sup> The Court has so far classified the following measures as less-lethal weapons in policing demonstrations and mass disorder: pepper spray, tear gas and tear-gas grenades, kinetic impact projectiles, water cannons, paint bullets, and blast-effect grenades. See: *Ali Gürbüz v. Turkey*, no. 52497/08, judgment of 12 July 2016, ECHR, paras 37-43; *Abdullah Yaşa and Others v. Turkey*, no. 44827/08, judgment (Second Section) of 16 July 2013, ECHR, paras 38-50; *İzci v. Turkey*, no. 42606/05, judgment of 23 July 2013, ECHR, paras 62-66; *Kılıcı v. Turkey*, paras 32-35; *Geylani and Others v. Türkiye*, paras 84-86; *İşik v. Türkiye*, paras 51-62; *Fraisse and Others v. France*, nos. 22525/21 and 47626/21, judgment of 27 February 2025, ECHR paras 125-26.

<sup>50</sup> *Tsaava and Others v. Georgia* (GC), para. 342.

<sup>51</sup> *McShane v. the United Kingdom*, no. 43290/98, judgment of 28 May 2002, ECHR.

<sup>52</sup> *Tsaava and Others v. Georgia* (GC), para. 342 (a).

<sup>53</sup> The Court has previously addressed the requirement of strict necessity in *Kılıcı v. Turkey*, no. 32738/11, and *Geylani and Others v. Türkiye*, no. 10443/12.

<sup>54</sup> *Tsaava and Others v. Georgia* (GC), para. 342 point 2.

<sup>55</sup> See: *Abdullah Yaşa and Others v. Turkey*; *Isik v. Türkiye*, no. 42202/20, para. 57.

police officers. The Court held that it was unlawful that ‘no order to disperse was issued at the scene of the demonstration itself, and that no clearly audible warning was given before the authorities resorted to ‘special means’ – specifically kinetic impact projectiles – to disperse it’.<sup>56</sup> Additionally, the Court observed, as in *David Kurdovanidze and Others v. Georgia*,<sup>57</sup> that Georgian police officers ‘had received no training’ and ‘had not had to obey a strict chain of command’, which was a systemic flaw and a clear procedural failure inconsistent with Council of Europe’s standards.<sup>58</sup> Consequently, the Court indicated that the state’s positive obligations include ensuring adequate training,<sup>59</sup> introducing clear and precise rules governing the use of KIPs (including the obligation to issue warnings prior to deployment),<sup>60</sup> recording each use of such measures,<sup>61</sup> and enabling identification of the officers deploying them.<sup>62</sup> Some caution is warranted regarding the Court’s use of the phrase ‘at a minimum,’ which could suggest that states retain a potentially wide ‘margin of appreciation’ in implementing the judgment into domestic law.<sup>63</sup>

#### 4.2. Journalistic Protection

Beyond the ECtHR’s primary focus on minimum requirements for KIPs, it is also important to analyse the parts of the judgment in which the Court sought to systematise the protection of actors involved in media reporting. First, reaffirming the existing line of case law,<sup>64</sup> it distinguished journalists and other individuals reporting on events in situations involving

<sup>56</sup> *Tsaava and Others v. Georgia* (GC), para. 439.

<sup>57</sup> *David Kurdovanidze and Others v. Georgia*, no. 20175/21, communicated on 7 June 2021, ECHR.

<sup>58</sup> *Tsaava and Others v. Georgia* (GC), para. 212. See: Committee of Ministers of the Council of Europe, *Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors* (adopted 13 April 2016); Parliamentary Assembly of the Council of Europe, *Resolution 2532 (2024) on guaranteeing media freedom and the safety of journalists: an obligation of member States*, adopted 25 January 2024; Venice Commission and OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly* (3<sup>rd</sup> edition, Joint Guidelines) (CDL-AD(2019)017rev-e), paras 191-203.

<sup>59</sup> *Tsaava and Others v. Georgia* (GC), paras 342 (e) and 343 (e).

<sup>60</sup> *Tsaava and Others v. Georgia* (GC), paras 342 (d) and 344 (d).

<sup>61</sup> *Tsaava and Others v. Georgia* (GC), paras 337, 332–334, 329 and 344 (f).

<sup>62</sup> *Tsaava and Others v. Georgia* (GC), paras 342 (f) and 344 (f).

<sup>63</sup> *Tsaava and Others v. Georgia* (GC), para. 342 *in limine*.

<sup>64</sup> *Pentikäinen v. Finland*, no. 11882/10, judgment (Grand Chamber) of 20 October 2015, ECHR; *Butkevich v. Russia*, no. 5865/07, judgment of 13 February 2018, ECHR.

the use of force against demonstrators from other participants in assemblies, while also identifying a separate category of entirely uninvolved bystanders.<sup>65</sup> Second, it recognised journalists as persons reporting on events regardless of whether they held accredited or non-accredited status in the state.<sup>66</sup> In the present case, the Court found that ‘the authorities were required to take into account the presence of journalists and to afford them enhanced protection.’ The use of KIPs against journalists, resulting in injury, indicated either deliberate action by the authorities or gross negligence, producing a chilling effect and necessitating the implementation of appropriate regulations to prevent future violations.<sup>67</sup>

In this way, the Court effectively extended material protection to all individuals actively reporting on events, broadening the existing category of journalists to include freelancers and those using new forms of media. Referring to its previous case law,<sup>68</sup> it expressly recognised these actors as playing a special role in documenting threats to human rights in a democratic state. In my view, recognising journalists as public watchdogs carries far-reaching implications, creating an obligation for national authorities to provide them with dedicated functional protection.<sup>69</sup> Consequently, the responsibility for safeguarding journalists is shifted from a post hoc approach to one embedded in operational planning and command.<sup>70</sup>

#### 4.3. Effective Investigations in Crisis Situations

The judgment also represents a further significant step in confirming the existing obligations of national authorities to conduct effective investigations in situations involving the necessary use of force against any individual.<sup>71</sup> Notably, in the present case, the ECtHR not

---

<sup>65</sup> *Tsaava and Others v. Georgia* (GC), para 327(c).

<sup>66</sup> *Tsaava and Others v. Georgia* (GC), paras 300, 315.

<sup>67</sup> *Tsaava and Others v. Georgia* (GC), paras 315, 332-336, 344(e)-(f).

<sup>68</sup> *Observer and Guardian v. the United Kingdom*, application no. 13585/88, judgment of 26 November 1991, Plenary Court (Rand Chamber), ECHR.

<sup>69</sup> *Tsaava and Others v. Georgia* (GC), paras 312, 315, 327(c).

<sup>70</sup> In this way, the Court referred to the *Najafli v. Azerbaijan*, confirming that any act of violence against a journalist gives rise to a presumption of a violation of Article 10 of the ECHR. Cf. *Ali Gürbüç v. Turke*; Tabaszewski, ‘The Permissibility of Limiting Rights and Freedoms’, 60-61.

<sup>71</sup> *Bouyid v. Belgium*, no. 23380/09, judgment (Grand Chamber) of 28 September 2015, ECHR; *Nachova and Others v. Bulgaria*, nos. 43577/98 and 43579/98, judgment (Grand Chamber) of 6 July 2005, ECHR.

only reaffirmed its previous position on the active duty of state authorities, as expressed in the *El-Masri* case, according to which 'the authorities must act of their own motion once the matter has come to their attention'.<sup>72</sup> It also extended this principle by holding that the state bears the burden of demonstrating the lawfulness of its actions during law-enforcement operations. Shifting the burden of proof in cases where serious injuries occur during police operations aims to prevent impunity among officers in the future, representing a key mechanism for human rights protection. By treating the absence of an effective investigation as a standalone form of Convention harm, the Court drew on the case law of the Inter-American Court of Human Rights, emphasising that the hallmarks of an effective investigation include independence, promptness, the ability to identify perpetrators, and overall transparency.<sup>73</sup> On the other hand, such a broad catalogue of state obligations, independent of the passage of time, risks a potential inflation of procedural duties imposed on public authorities.

Unfortunately, in the context of the effectiveness of investigative proceedings, the Court did not examine in depth the lawfulness of the amnesty applied by the Georgian authorities to three accused police officers. A more thorough assessment could have addressed the fine line between the permissibility of the amnesty and the obstruction of investigation by released officers. Additionally, a systemic concern arises regarding the relationship between the procedural dimension of the right under Article 3 and the autonomous right under Article 13 (the right to an effective remedy). There are strong doctrinal arguments that Article 13 of the ECHR should be considered separately, as the scope of protection it affords is not automatically absorbed by the procedural dimension of Article 3.<sup>74</sup> This concern is highlighted by Judge Serghides in his separate opinion, who notes:

---

<sup>72</sup> *El-Masri v. the former Yugoslav Republic of Macedonia*, no. 39630/09, judgment (Grand Chamber) of 13 December 2012, ECHR.

<sup>73</sup> *Favela Nova Brasília v. Brazil*, Case No. 11.566, judgment of 16 February 2017 (Merits, Reparations and Costs), Inter-American Court of Human Rights, Series C No. 333; *Montero Aranguren and Others (Detention Center of Catia) v. Venezuela*, Case No. 10.388, judgment of 5 July 2006 (Merits, Reparations and Costs), Inter-American Court of Human Rights, Series C No. 150.

<sup>74</sup> Orzeszyna, Skwarzyński, and Tabaszewski, *International Human Rights Law*, 370-371.

Unlike the said procedural obligation, the right under Article 13 is a stand-alone and autonomous right. By declining to examine the complaint under Article 13, we risk conflating two distinct protections: one tied to Article 3, founded on the principle of effectiveness, and the other ensuring effective remedies under Article 13. Such an approach undermines the cornerstone of the Convention, namely the right of individual application under Article 34, which secures the Convention's effectiveness and the very essence of the rule of law.<sup>75</sup>

Accordingly, the question remains open as to whether the strengthening of the procedural dimension of Article 3 occurs at the expense of Article 13 of the ECHR.

The judgment is also significant in terms of the Court's adoption of a new perspective on the state's positive obligations in the context of increased tolerance for the use of extra precautionary measures.<sup>76</sup> The Court confirmed its emerging line of jurisprudence recognising the permissibility of limiting certain Convention rights and freedoms, such as freedom of expression (Article 10 of the ECHR) and the freedom of peaceful assembly and association (Article 11 of the ECHR), in the context of such precautionary measures. *In casu*, the Court affirmed that the dispersal of the assembly was justified in light of the fundamental interest in ensuring the effective functioning of Parliament. Critically, however, the Court did not undertake a comprehensive analysis of alternative strategies that the Georgian authorities could have employed to avoid dispersing the assembly altogether. Member States were thus left with an excessively wide margin of appreciation in this regard, which could potentially affect the reconfiguration of the relationship between public security and human rights. A further limitation of the judgment is the absence of an assessment as to whether the right to peaceful assembly was compromised by acts of violence committed by third parties.<sup>77</sup> Leaving this unexamined reinforces the existing standard and

---

<sup>75</sup> PD Judge Serghides, *Tsaava and Others v. Georgia*, GC, 11 Dec. 2025, para. 4.

<sup>76</sup> Tabaszewski, "Limitations on Human Rights and Freedoms", 37-39.

<sup>77</sup> In light of the Court's established case law, a state may not penalize participants in a demonstration that has not been prohibited, provided that the individual concerned has not themselves engaged in reprehensible conduct. *Ezeli v. France*, no. 11800/85, judgment of 26 April 1991, ECHR; European Court of Human Rights (HUDOC); *Kudrevičius and Others v. Lithuania*, nos. 37553/05 (joined), judgment (Grand Chamber) of 15 October 2015, ECHR.

presumption under which sporadic violence by a minority of demonstrators does not deprive the remaining participants of protection.

## 5. Conclusions

In its 2025 judgment, the GC addressed not only the formal-legal limits on the use of force and the obligations of states in crisis situations, but also the existence and mechanisms for implementing effective investigations into potential violations of the Convention. The context of mass assemblies and the policing of protests served as a catalyst for the formulation of these standards. The judgment bears the hallmarks of a precedent-setting decision, as it articulates state obligations regarding police conduct during protests, the protection of participants, and the duty to conduct thorough investigations as a key mechanism for safeguarding human rights. The judgment is also significant for journalists, as the GC clarified the categories of individuals involved in media coverage and considerably strengthened the positive obligations of states towards journalists as actors playing a crucial role in a democratic society, particularly in reporting on and monitoring the actions of public authorities.

The GC's judgment represents a major advance in defining the limits on the use of so-called 'less-lethal' weapons. Unlike other decisions, the judgment in *Tsaava and Others v. Georgia* does not establish an incidental standard (as in *Kılıcı v. Turkey*<sup>78</sup> or *Gelashvili v. Georgia*<sup>79</sup>), nor does it apply Article 3 of the ECHR outside the context of demonstrations (as in *Işık v. Turkey*<sup>80</sup>). Rather, it formulates a systemic and comprehensive standard for the application of Article 3 of the ECHR. The Court identified a series of deficiencies in the Georgian legal framework governing the police use of KIPs during demonstrations. Importantly, it concentrated on the response of national authorities, the proportionality of the use of force, and the effectiveness of the investigations conducted, but it did not assess the justification, political background, or propriety of the protest itself or the actions of the Georgian opposition.

In the context of investigative procedures conducted by Georgian authorities during the COVID-19 pandemic, the GC's judgment is also highly relevant for the practice of legislative and executive authorities

---

<sup>78</sup> *Kılıcı v. Turkey*, no. 32738/11, judgment of 27 November 2018, ECHR.

<sup>79</sup> *Gelashvili v. Georgia*, no. 32183/05, judgment of 17 July 2009, ECHR.

<sup>80</sup> *Işık v. Türkiye*, no. 42202/20, judgment of 8 October 2024, ECHR.

across the European human rights protection system. Furthermore, the general measures prescribed under Article 46 of the ECHR reflect the Court's approach typical of pilot judgments.<sup>81</sup> By recognising the existence of systemic deficiencies requiring legislative and institutional reforms beyond individual redress, the Court aligned its methodology with that applied in *Broniowski v. Poland*.<sup>82</sup> Moreover, the judgment is situated within the contemporary reality of a new, post-2020 European security management paradigm.

### Bibliography

1. Civil.ge. "Ex-PM Gakharia Charged in Absentia over 'Gavrilov's Night,' Chorchana Tensions." Civil Georgia, 11 December 2023. <https://civil.ge/archives/642341>. Accessed February 15, 2026.
2. Civil.ge. "Prosecutors Charge Nika Melia over June 20–21 Protests." Civil Georgia, 26 June 2019. <https://civil.ge/archives/310437>. Accessed February 15, 2026.
3. CoE. *Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)*. ETS No. 5. Rome, 4 November 1950. Entered into force 3 September 1953.
4. CoE. PACE. Resolution 2532 (2024) on Guaranteeing Media Freedom and the Safety of Journalists: An Obligation of Member States. Adopted 25 January 2024.
5. CoE. *Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the Protection of Journalism and Safety of Journalists and Other Media Actors*. Adopted 13 April 2016.
6. "Dispersal of Demonstration Using Kinetic Impact Projectiles: Injury of Journalists and Protesters." Case note. *ECHR Case Law*. December 11, 2025. <https://www.echrcaselaw.com/en/echr-decisions/dispersal-of-demonstration-using-kinetic-impact-projectiles-injury-of-journalists-and-protesters-violation-of-articles-3-10-and-11-echr/>. Accessed February 15, 2026.
7. ECHR. *Ezelin v. France*, no. 11800/85, judgment of 26 April 1991.
8. ECtHR *Gelashvili v. Georgia*, no. 32183/05, judgment of 17 July 2009.
9. ECtHR *Geylani and Others v. Türkiye*, no. 10443/12, judgment of 12 September 2023.
10. ECtHR *İşık v. Türkiye*, no. 42202/20, judgment of 8 October 2024.
11. ECtHR *İzci v. Turkey*, no. 42606/05, judgment of 23 July 2013.
12. ECtHR *Kathleen Stewart v. the United Kingdom*, no. 10044/82, decision of 10 July 1984.

---

<sup>81</sup> See also: "Police Use of Tear Gas During Peaceful Assemblies," case note, *ECHR Case Law*, 3 March 2024. Accessed February 15, 2026, <https://www.echrcaselaw.com/en/echr-decisions/police-use-of-tear-gas-during-peaceful-assemblies-violation-of-article-11-echr/>.

<sup>82</sup> *Broniowski v. Poland*, no. 31443/96, judgment (Grand Chamber) of 22 June 2004, ECHR; Tabaszewski, "The Protection of Human Rights", 524.

13. ECtHR *Kilici v. Turkey*, no. 32738/11, judgment of 27 November 2018
14. ECtHR *Kudrevičius and Others v. Lithuania*, nos. 37553/05 (joined), judgment (Grand Chamber) of 15 October 2015.
15. ECtHR *Kurdovanidze and Others v. Georgia*, no. 18768/10, judgment of 10 November 2022.
16. ECtHR *McShane v. the United Kingdom*, no. 43290/98, judgment of 28 May 2002.
17. ECtHR *Nachova and Others v. Bulgaria*, nos. 43577/98 and 43579/98, judgment (Grand Chamber) of 6 July 2005.
18. ECtHR *Najafli v. Azerbaijan*, no. 2594/07, judgment of 2 October 2012.
19. ECtHR *Observer and Guardian v. the United Kingdom*, no. 13585/88, judgment (Plenary Court) of 26 November 1991.
20. ECtHR *Pentikäinen v. Finland*, no. 11882/10, judgment (Grand Chamber) of 20 October 2015, ECHR.
21. ECtHR *Tsaava and Others v. Georgia*, applications nos. 13186/20 and four others, judgment (Fifth Section) of 7 May 2024.
22. ECtHR *Tsaava and Others v. Georgia*, applications nos. 13186/20 et al., judgment (Grand Chamber) of 11 December 2025.
23. ECtHR *Tsaava and Others v. Georgia*, applications nos. 13186/20 et al., judgment (Grand Chamber) of 11 December 2025, partly dissenting opinion of Judge Serghides.
24. ECtHR *Tsaava and Others v. Georgia*, applications nos. 13186/20 et al., judgment (Grand Chamber) of 11 December 2025, statement of partial dissent by Judge Eicke
25. ECtHR, *Abdullah Yaşa and Others v. Turkey*, no. 44827/08, judgment (Second Section) of 16 July 2013.
26. ECtHR, *Ali Gürbüz v. Turkey*, no. 52497/08, judgment of 12 July 2016.
27. ECtHR, *Bouyid v. Belgium*, no. 23380/09, judgment (Grand Chamber) of 28 September 2015.
28. ECtHR, *Broniowski v. Poland*, no. 31443/96, judgment (Grand Chamber) of 22 June 2004.
29. ECtHR, *Butkevich v. Russia*, no. 5865/07, judgment of 13 February 2018.
30. ECtHR, *David Kurdovanidze and Others v. Georgia*, no. 20175/21, communicated on 7 June 2021.
31. ECtHR, *El-Masri v. the former Yugoslav Republic of Macedonia*, no. 39630/09, judgment (Grand Chamber) of 13 December 2012.
32. ECtHR, *Fraisie and Others v. France*, nos. 22525/21 and 47626/21, judgment of 27 February 2025.
33. ECtHR. "Unjustified Use of Force and Rubber Bullets in Dispersal of Protest in Front of Georgian Parliament." *Press release issued by the Registrar of the Court*, ECHR 291 (2025), 11 December 2025.
34. ECtHR. *Rules of Court*. Strasbourg, 15 September 2025.
35. Georgia. *Parliament of Georgia. Law on Amnesty*, adopted 7 September 2021. <https://parliament.ge/en/media/news/parlamentma-amnistiis-shesakheb-kanonproekti-mesame-mosmenit-miigho>
36. HRC. General Comment No. 37: Article 21 (Right of Peaceful Assembly). UN Doc. CCPR/C/GC/37, 2020.
37. Human Rights Center "Empathy" (RCT/EMPATHY). *An Urgent Need or a Punitive Operation? Anti-Occupation Protest of June 20, 2019 and the Use of Law*

- Enforcement Equipment in Georgia – An Urgent Action or a Punitive Special Operation?* Tbilisi, 2021.
38. IACHR, Office of the Special Rapporteur for Freedom of Expression. Protest and Human Rights: Standards on the Use of Force by Law Enforcement Officials. OEA/Ser.L/V/II, CIDH/RELE/INF.22/19, 2019.
  39. IACHR. *Protest and Human Rights*. OAS/Ser.L/V/II, 2019.
  40. IACtHR, *Favela Nova Brasilia v. Brazil*, Case No. 11.566, judgment of 16 February 2017 (Merits, Reparations and Costs), Series C No. 333.
  41. IACtHR, *Montero Aranguren and Others (Detention Center of Catia) v. Venezuela*, Case No. 10.388, judgment of 5 July 2006 (Merits, Reparations and Costs), Inter-American Court of Human Rights, Series C No. 150.
  42. INCLO. "ECHR Ruling: Georgia Violated Rights of Protesters and Journalists with CCWs." 16 December 2025. <https://inclo.net/latest/expert-opinions/echr-ruling-georgia-violated-rights-of-protesters-and-journalists-with-ccws/>. Accessed February 15, 2026.
  43. Kacewicz, Maksym. "Tbilisi: kolejna odsłona niedokończonych rewolucji." *Belsat*, 25 June 2019. <https://www.belsat.eu/pl/news/tbilisi-kolejna-odslona-serii-niedokonczonej-rewolucji>. Accessed February 15, 2026.
  44. Khoshtaria, Tamar, and Veronika Pfeilschifter. "Protest Attitudes and Protest Behaviour in Georgia." *Caucasus Analytical Digest*, no. 139 (2024): 1–18. <https://doi.org/10.3929/ethz-b-000703789>.
  45. Machowicz, Kinga, and Robert Tabaszewski. "The Inter-State Application to the European Court of Human Rights in Strasbourg – Potential Revival." *Przegląd Sejmowy* 1 (174) (2023): 165–182.
  46. Mijalska, Faustyna, and Jarosław Kardaś. "The Basis of Social Protests in Georgia in 2019." *Środkowoeuropejskie Studia Polityczne*, no. 4 (2020): 7–26. <https://doi.org/10.14746/ssp.2020.4.1>
  47. Mik, Cezary. „Teoria obowiązków pozytywnych państw-stron traktatów w dziedzinie praw człowieka na przykładzie Europejskiej Konwencji Praw Człowieka”, in: *Księga jubileuszowa profesora Tadeusza Jasudowicza*, red. J. Białocerkiewicz, M. Balcerzak, A. Czeczko-Durlak, Toruń: Towarzystwo Naukowe Organizacji i Kierownictwa „Dom Organizatora”, 2004, s. 257–276.
  48. Mik, Cezary. *Standardy Rady Europy dotyczące wolności prasy*, „Palestra” 1993, t. 37, nr 9, s. 94–96.
  49. OC Media, "Thousands Clash with Police as Protesters Try to Storm Georgian Parliament." 27 June 2019. <https://oc-media.org/thousands-clash-with-police-as-protesters-try-to-storm-georgian-parliament/>. Accessed February 15, 2026.
  50. OHCHR. *Human Rights Guidance on the Use of Less Lethal Weapons in Law Enforcement*. Geneva, 2020.
  51. Orzeszyna, Krzysztof, Michał Skwarzyński, and Robert Tabaszewski. *International Human Rights Law*. Warsaw: C.H. Beck, 2023.
  52. OSCE/ODIHR. *Guidelines on Freedom of Peaceful Assembly*. 3rd edn (Joint Guidelines), CDL-AD(2019)017rev-e.
  53. Reidy, Aisling. *The Prohibition of Torture: A Guide to the Implementation of Article 3 of the European Convention on Human Rights*. Human Rights Handbooks, no. 6. Strasbourg: Council of Europe, 2003.
  54. "Russian MP's Appearance in Georgian Parliament Sparks Protests across Georgia." OC Media, 27 June 2019. <https://oc-media.org/russian-mp-s-appearance-in-georgian-parliament-sparks-protests-across-georgia>. Accessed February 15, 2026.

55. Tabaszewski, Robert. "Limitations on Human Rights and Freedoms in an EU Member State: The Case of Poland." In *EU Enlargement and Acquis Adoption Burden: State of Art and Proposals for a Correct Adoption of the Acquis for Albania*, edited by Arber Gjeta, 29–48. Elbasan: EEAABAC, 2024.
56. Tabaszewski, Robert. "The Permissibility of Limiting Rights and Freedoms in the European and National Legal System Due to Health Protection." *Review of European and Comparative Law*, no. 3 (2020): 45–68.
57. Tabaszewski, Robert. "The Protection of Human Rights under the ECHR and Central Europe: Poland." *European Integration Studies* 21, no. 2 (2025): 515–530.
58. Tolordava, Tamar. "From 'Foreign Agents' to 'LGBT Propagandists': Demonization of Civil Society Organizations in Georgia." *Caucasus Analytical Digest*, no. 139 (October 2024): 14–20. <https://doi.org/10.3929/ethz-b-000703789>
59. Wojtasiewicz, Wojciech. "Gruzini protestują przeciwko Rosji." *Nowa Europa Wschodnia*, 2 July 2019. <http://www.new.org.pl/6088-gruzini-protestuja-przeciwko-rosji/>. Accessed February 15, 2026.

