

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Fundamental Right to Freedom of Assembly and Manifestation Violated Once More!

On March 25, 2011, patrol police officers dispersed peaceful protesters gathered in support of prisoners outside the Ministry of Corrections and Legal Assistance of Georgia. Seven protesters were detained on charges of administrative offence: Giorgi Burjanadze, Vladimer, Sadgobelashvili, Merab Chikashvili, Otar Bekauri, Akaki Chikovani, Besik Tabatadze and Giorgi Kharabadze.

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We denounce the incident and consider that due to the following circumstances dispersion of the assembly and detention of protesters amounted to violation of the right of assembly and manifestation, guaranteed by law:

1. Tbilisi City Hall was provided with prior notice about the intention to hold the gathering, pursuant to the applicable law;
2. The blockage of the public thoroughfare was natural, due to the amount of the rally participants and for a short period of time, which is confirmed by the witness's statement before court;
3. The patrol police was not authorized to order dispersion, even if the rally participants had violated the law, as under paragraph 4 of Article 11 of the Law of Georgia on Assembly and Manifestation, the authority is reserved for municipal governance;
4. During the trial, patrol police officers stated that they were not concerned whether the assembly was legal or whether the protesters had the right to block the public thoroughfare. They also clarified that they started dispersion of the rally immediately upon arrival;
5. If the protesters had violated the law, it was the municipal authority who should have ordered the protesters to vacate the public thoroughfare – which was not the case and the law enforcement officers started dispersing the protesters without any prior order and by use of force.

The right to assembly and manifestation entails the government's obligation to tolerate. According to the case law of ECHR, short-term impediment of free movement, even by a small group of people, may not serve as a legal basis for dispersion of a gathering and detention of protesters.

In addition to the right to freedom of assembly and manifestation, the right to fair trial was also violated; specifically,

1. The court gave only 15 minutes to lawyers to familiarize themselves with the case materials and interview the detained, which is clearly insufficient for examining the case and interviewing the defendants and witnesses;
2. The court turned down the defense's motion about audio-recording of the session, notwithstanding the fact that the patrol police officers did not object to it;
3. The court turned down the motion to examine video materials recorded by cameramen of Kavkasia TV, Maestro TV and radio-union Obiektivi, reflecting

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dispersion of the rally by use of force and facts of detention of protesters.

4. The court turned down the motion to solicit and examine materials from the video surveillance system of the Ministry of Corrections and Legal Assistance;

5. Testimonies of either of the witnesses that testified at the trial and confirmed that the detained had not violated law were not taken into consideration by the court. The court was only guided by testimonies of the patrol police officers and protocols of violation;

6. Court's discriminatory treatment of the detained persons was evident: Although Valeri Sadgobelashvili and Giorgi Kharebava were detained by the patrol police officers after the rally was over, one km away from the scene, the court instituted radically different liability measures against them; specifically, it prescribed a fine in the amount of GEL 400 to Vladimer Sadgobelashvili, whereas it sentenced Giorgi Kharebava to 20 days of imprisonment.

Judge of Tbilisi City Court's board of administrative cases Nana Daraselia sentenced Merab Chikashvili and Giorgi Kharabadze to 20 days of imprisonment, Akaki Chikovani to 10 days of imprisonment and it prescribed a fine in the amount of GEL 400 to the remaining four detainees – Giorgi Burjanadze, Otar Bekauri, Vladimer Sadgobelashvili and Besik Tabatadze.

We, the signatory organizations, believe that dispersion of the gathering, as well as imposition of administrative liability on the protesters amounts to gross violation of human rights.

Recently the Georgian public has witnessed gross and illegal violation of the right to freedom of assembly and manifestation a number of times. Noted actions of the police amounts to criminal offence and adequate response to such violations of law is vitally important for the democratic development of the country. In our view, it is alarming that citizens' right to freedom of assembly and manifestation is almost fully restricted and protesters mostly end up dispersed and illegally detained. We call on the government of Georgia and the international society to adequately respond to the noted facts.

Signatories:

1. Georgian Young Lawyers Association - Tamar Chugoshvili;
2. Public Defender - Irina Putkaradze;
3. Coalition for Civil Development - Manana Kobakhidze;
4. Healthy Universe - Zurab Putkaradze;

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5. Association Justice and Freedom - Irakli Sesiashvili;
6. Regional Media Association - Ia Mamaladze;
7. International Center for Geopolitical Studies - Tengiz Pkhaladze;
8. Human Rights Center - Ucha Nanuashvili;
9. Article 42 of the Constitution - Nazi Janezashvili;
10. Youth for Justice - Nika Kvaratskhelia;
11. International Society for Fair Elections and Democracy - Eka Siradze;
12. Caucasus Women's Network - Nino Tsikhistavi;
13. Free Choice - Manana Bitsadze;
14. Research Center for Elections and political Technologies - Kakha Kakhishvili;
15. Union 21st Century - Paata Gachechiladze;
16. Expert - Zaal Japaridze;
17. Multinational Georgia - Arnold Stepanyan;
18. International Center on Conflict and Negotiation - Giorgi Khitsishvili;
19. Human Rights Priority - Lia Mukhashavria;
20. Transparency International Georgia - Eka Gigauri.