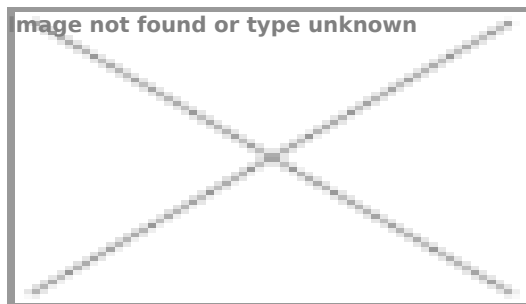


GYLA and Article 42 of the Constitution apply to the Prosecutor's Office on Vasil Lomsadze's case



GYLA and Article 42 of the Constitution expressed interest to the information released by mass media which reported that Zaal Adamia, the deputy head of Rustavi Police of the Ministry of Interior has abused physically Vasil Lomsadze. At the same time, Vasil Lomsadze applied to GYLA with similar allegations and asked for legal assistance.

We have studied case materials and observed that:

On October 27, 2013 Vasil Lomsadze was detained in Rustavi by police officers of the Rustavi police department No.2. He was accused as per Article 353(1) of the Penal Code of Georgia (attack on police).

According to the resolution of accusation, on October 27, 2013 at about 21:50, Zaal Adamia, the deputy head of Rustavi Police was attacked by Vasil Lomsadze in the vicinity of Balanchivadze str. #7, in Rustavi. Z. Adamia inflicted light physical injuries on V. Lomsadze without damaging his health.

On October 29, 2013 Rustavi Regional Prosecutor's Office motioned to Rustavi City Court and demanded imprisonment as preventive measure in Vasil Lomsadze's case. The court partially granted the motion and ordered fine as a preventive measure. Prosecution appealed the court ruling, however, the appeal court upheld the decision of the lower instance court.

Having studied case materials GYLA observed number of deficiencies which indicated on partiality and low quality of the conducted investigation, in particular:

1. Investigation was launched against Vasil Lomsadze and Z. Adamia, deputy head of the Ministry of Interior was considered victim in the case, while Vasil Lomsadze and some eye-witnesses report otherwise and allege that Vasil Lomsadze was beaten by policemen.

The defense interrogated A.A., under the witness status who reported that:

".. . It could be noticed on the face that the individual was beaten severely, he had blood on the nose and his face was swollen. We asked him what the problem was, but he started to cry and said that Zaliko had beaten him... in that moment 10 individuals dressed in police uniforms and in civilian clothes rushed in the entrance. Those dressed in police forms started to abuse the beaten person physically and dragged him from the entrance. Afterwards others also approached him and started to beat. At that moment one individual dressed in civilian clothes turned to us and ordered to enter our houses. We obeyed."

E.O., Z.K., G.K., were also questioned under the witness status, who also confirmed the fact of Vasil Lomsadze's physical abuse by police officers.

2. Under the initiative of the defense, medical examination was undertaken to Vasil Lomsadze in the independent center of forensic expertise "Vector". According to expert opinion, *the closed trauma of the skull and brain concussion has been observed. With a view to exclude brain abrasion and other sort of fractures he requires MR(I)-scan and active drug therapy under the supervision of the neurologist.*

Examination revealed that V. Lomsadze has various injuries reflected in livid spots, subconjunctival bruise, swell of the left half of the face and scar in the area of the chin.

In view of above, according to provided information, allegedly the injuries have been inflicted on Vasil Lomsadze by repeated manipulation of thick, blunt object(s).

3. Testimonial evidences of Ivane Chokuri and Mikheil Bakhutashvili, two witnesses of the prosecution seem to be unpersuasive and generate lots of questions. This fact was also mentioned in the decision of Rustavi City Court stating that: “evidences of the witnesses are so identical in terms of factual circumstances, that they even have similar orthographic errors.”

4. Zaal Adamia’s testimonial evidence, a policeman who was considered victim, in the case is hardly convincing as well. He reports that Vasil Lomsadze applied cynically, though with a view to “resolve the situation” he left Lomsadze and went away. The same evidence provides: “On my way to the car, Vasil lomsadze followed me, called me and when I looked back he started to use bad language in the direction of policemen. He said that we did not deserve lives and having been allowed he would have kill us without hesitation. In response, I urged him to stop crying and to sit in my car if he wanted to go home. When he sat in the car, he started to beat me with fists on my face, it happened so unexpectedly that I could not even realize what was going on...” Everything may happen but it seems strange to offer the car and to take home an individual who expresses such an aggression to Z.Adamia and policemen in general.

5. The law enforcement representatives did not explain his rights to Vasil Lomsadze and thus grossly violated Criminal Procedure Code. That was the reason why Rustavi City Court refrained from ordering imprisonment as preventive measure in Lomsadze’s case. The court decision provides: “None of the protocols of witness examination prove that Vasil Lomsadze was explained his rights and obligations...From the moment when policemen restricted his right to free movement, he was considered accused and detained, accordingly law enforcement officers were obliged to notify the detained about the grounds for his detention, to explain submitted charges and his rights to have a lawyer, to keep silent and refrain from answering the questions. ..In view of above the court considers that requirements of

Articles 174 and 175 of the Criminal Procedure Code of Georgia were grossly violated.
”

6. It should also be noted that according to the information of Vasil Lomsadze’s lawyer, there is an attempt to make an influence on the defense witnesses.

7. Furthermore, we would like to respond to [the information released by the press service of the Ministry of Interior reporting about Vasil Lomsadze’ numerous previous convictions](#). Firstly, we should note that the information is false, since Lomsadze was brought to justice only once. Moreover, we should stress the opinion pointed out in [Levan Korkotashvili’s case by GYLA on October 11](#) : “the fact of his previous conviction may never justify any violence or crime possibly committed by the police ... Despite the number of times an individual has been convicted before, s/he should be given the possibility to continue living peacefully; if s/he fails to utilize this chance, investigation should be conducted as prescribed by law while any violation of applicable stipulations of the law may not be justified by previous convictions of the individual concerned, notwithstanding the number of convictions. “

In view of above, information provided by **Vasil Lomsadze and the defense could not be left without response. The information contains certain signs of offence envisaged by the criminal code. We call on the prosecutor of Georgia to observe the direct requirement of legislation and to investigate the fact.**