

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Condemns Imprisonment of Kakha Mikaia, a member of Protect Georgia, and Deems it as a Gross Interference with the Freedom of Assembly

On March 27, 2012, Zugdidi-based internet-publication livepress.ge released [a video material](#) showing detention of Kakha Mikaia, a member of Protect Georgia. The video-

footage shows that a protest assembly was held outside Zugdidi District Court, where protesters were addressed by members of Free Democrats, Irakli Chiovani and Tea Tsulukiani. Assembly participants were protesting against the decision of Zugdidi District Court sentencing Sergo Chachibaia, a member of Free Democrats, to a two-month pre-trial imprisonment. Kakha Mikaia, a member of Protect Georgia, was holding a voice amplifier in his hands, used by Tea Tsulukiani to address the participants. Suddenly law enforcer approached him and notified him that he was under arrest.

Zugdidi District Court found Kakha Mikaia guilty of committing offences envisaged by Articles 166 (petty hooliganism) and 173 (malicious disobedience to law enforcement officers) of the Code of Administrative Offences of Georgia and pronounced him as an administrative offender, sentencing him to a 10-day administrative imprisonment.

Petty hooliganism entails use of abusive language in public places, derogatory treatment of citizens and other similar actions disturbing public order and peace of citizens. The footage released by livepress.ge clearly shows that Kakha Mikaia not only did not use any abusive language but he did not make any protest statements or address to the participants. The only action taken by Kakha Mikaia was holding the voice amplifier at the protest gathering. Malicious disobedience to law enforcement officers amounts to disobedience of police order to terminate an illegal action. The footage released by livepress.ge does not show what illegal action was the police ordering Kakha Mikaia to terminate and what was the order that the latter disobeyed to. The footage only shows a sudden appearance of law enforcement officers and detention of Kakha Mikaia without making any prior warning.

The court was guided by the protocol of administrative offence drawn up by the patrol inspectors, as well as reports by the law enforcers and the statement that one of the law enforcement officers gave to court. This evidence corroborated that Kakha Mikaia was using abusive language and after police ordered him to stop, he disobeyed. Therefore, he was detained. The court did not deem it necessary to examine other pieces of evidence and the judge noted in his judgment that the legislation does not require obligatory attendance of other witnesses, while an officer that has identified the offence has suitable professional skills to adequately assess the incident. "His (police officer's) statement has been drawn up in attendance of the offender and

therefore, the source of evidence is indispensable.” – declared Judge Laura Mikava.

Hence, the video footage released does not corroborate the administrative offence allegedly committed by Kakha Mikava. Clearly he was detained pursuant to administrative proceedings for participating in the protest assembly, which amounts to violation of the right to peaceful assembly guaranteed by Article 25 of the Constitution of Georgia and Article 11 of the ECHR. GYLA condemns detention for participation in a peaceful protest assembly and is concerned by the fact that use of tight measures in the form of imprisonment may have a chilling effect on other individuals that will refrain from participating in a protest assembly, fearing the punishment. Such outcomes will have a negative effect on the development of democracy and practice of basic civil rights in the country.