



GYLA Evaluates the State of Human Rights Protection in 2014

On December 10, 2014, in relation to the International Day of the Human Rights Protection, Georgian Young Lawyers' Association (GYLA) has made the brief evaluation of the state of the human rights protection in the country and has briefly summarized its activities in this regard for the past year. Considering the multitude of the topics and issues, we will cover only some of the directions of the human rights protection in this statement.

In 2014, the state has made some of the important decisions, which will promote human rights protection, specifically: the EU Association Agreement was signed; [REDACTED] Strategy on the Human Rights Protection of Georgia for 2014-2020 A was adopted; the two-year Action Plan was adopted for the purpose of implementation of the above Strategy; [REDACTED] on Elimination of All Forms of Discrimination A was enacted, etc. Throughout the 2014, the engagement of the civil society sector in the decision-making process on the above and other important issues was more or less ensured, which deserves positive evaluation. However, it is important to further increase the level of such engagement.

Also, it is of utmost importance that based on the constitutional lawsuit of GYLA, the Constitutional Court of Georgia has delivered its decision on October 8, 2014. Based on the decision, the pre-existing legal model of a disability was invalidated. Therefore, the parliament must enact the relevant amendments to the civil code prior to April 1, 2015.

The Court Process Monitoring continued by GYLA in 2014 has confirmed the improvements in relation to the separate components of the criminal justice and protection of a right to a fair trial.

Despite the separate directions of improvement in terms of human rights protection practices, the state is still facing the significant challenges, such as:

Protection of Women's Rights – considering the disturbing scale of violence against women in 2014, women represent one of the most vulnerable groups of our society. In order to decrease the risks of violence against women, it is necessary for the law-enforcement bodies to adequately respond to the applications from the victims. For the protection of women's rights, GYLA is litigating on the national level and in the European Court of Human Rights (ECHR). With the help of GYLA's lawyers, a number of protection and restrictive orders were issued and the female victims of violence were accommodated at the shelters. In July 2014, GYLA participated in the session of the UN Committee on Elimination of All Forms of Discrimination against Women and our recommendations were reflected in the conclusive remarks of the committee. GYLA is working on the cases that have the precedent importance in relation to the labor discrimination against women and reproductive rights. In addition, GYLA continues working towards raising public awareness in terms of women's rights.

Combating Discrimination and Anti-Discrimination Legislation – similar to the previous year, this year has demonstrated a number of cases of violating the rights of minorities. For example, throughout the 2014 the freedom of belief of the muslim citizens of Georgia was gravely violated in a number of cases. On September 15, 2014, the christian population did not give the possibility to a muslim community to open the repaired youth house in Kobuleti. The government still does not respond to the violent and anti-constitutional actions of the christian population in Kobuleti. At the same time, the response of the law-enforcements was fast when, on October 22, 2014 the muslims in village Mokhe (Adigeni district) were protesting the changing of the former mosque and re-constructing it into the house of culture. The police has detained 14 muslims with excessive use of force. GYLA was protecting the interests of the detained persons, who were released later.

On May 2, 2014, the parliament has adopted the **Law** on Elimination of All Forms of

Discrimination A The mentioned law does not prescribe an effective implementation mechanism, does not provide the possibility to fine a discriminating individual, does not provide for the concrete criteria for the restitution of the non-pecuniary damages. The response to the facts of discrimination is limited to the non-mandatory recommendation of an ombudsman. Despite this, the law represents a step forward, since the discrimination on the various grounds, among others, on the grounds of sexual orientation or gender identity is directly prohibited. In addition, the burden of proof that the discrimination did not occur is upon the alleged discriminator.

Alleged Facts of Offences by the Law-Enforcements, Ineffective Investigation and the Necessity of Creating an Independent Investigatory Mechanism - throughout the 2014, dozens of individuals have applied to GYLA, stating that the police has physically and verbally abused them, that there were facts of [REDACTED] the guns or drugs, forcing to recognize the crimes that those individuals did not commit (the information which has also become the center of media attention multiple times). In relation to the above, GYLA has been constantly addressing the law-enforcement bodies multiple times, requesting the law-enforcements to conduct an effective investigation. However, the effectiveness of an investigation of the alleged crimes by the law-enforcements remains to be a problem, as well as revealing the crimes and imposing adequate responsibilities.

For the past one year, the issue of transparency and unbiased operation was problematic in case of prosecution as well. GYLA considers that the legislation of Georgia does not provide the proper guarantees for ensuring political impartiality of the prosecution. There are questions regarding the alleged political motives behind the investigation of some of the cases, which is damaging for the image of this vital institution.

It should also be underlined that despite the fact that more than two years has passed since the publication of the prison videos, the investigation on the inhuman treatment towards the prisoners and exceeding one [REDACTED] authority by various employees of the penitentiary department has been ineffective and in a number of cases, the investigation was not followed by revealing an offender. Moreover, according to the statement of the victims of the inhuman treatment, the employees of the penitentiary that participated in the episodes of an improper treatment, instead of being punished, still continue working in those entities. It is necessary for the prosecution to conduct

fast, comprehensive and effective investigation for adequate punishment of the offenders. Otherwise, the proper prevention of the torture and inhuman treatment will not be possible. GYLA litigates at the national level and in the European Court of Human Rights (ECHR) on behalf of the victims of the inhuman treatment.

GYLA considers that one of the ways to tackle the above problem is through creating an independent investigative mechanism, which will ensure proper investigation of the committed crimes by the law-enforcements.

The State of the Penitentiary System □ despite the fact that torture and inhuman treatment at the penitentiaries does not represent a wide-scale problem anymore, the challenges still remain in this system. Very often, the response is ineffective in such cases when the prisoners speak about the alleged offences by the prison administration. GYLA considers that in order to tackle this and other problems in the system, it is necessary to introduce a possibility of public monitoring in a prison and detention facilities.

Protection of a Right to Private Life □ on August 1, 2014, the parliament has adopted the package of the legislative acts on the so-called [] eavesdropping A□ The law has clearly elaborated the categories of violation and the circle of actors, in cases of which it will be allowed to apply secret eavesdropping actions. In addition, the law has provided for the possibility to send an information note to the individual that has been an object of the secret eavesdropping. As a result of the legislative amendments the secret eavesdropping will only be possible if this represents the last resort of achieving the purpose and all of the other means of investigation are exhausted. The law has defined the rules of destroying the secret materials. Those progressive amendments were followed by the significant drawbacks: on November 30, 2014, the parliament of Georgia has adopted the legislative amendments, according to which the [] to eavesdropping A remains in the hands of the Ministry of the Internal Affairs (MIA).

Labor Rights □ in terms of violation of the labor rights, throughout the 2014, the cases of unjustified work dismissals were still acute □ both from the public services, as well as from those entities that are subject to the labor code provisions. Very frequently, the employees were dismissed through an indication of formal grounds, such as reorganization or decreasing the number of staf members and/or citing grave

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violation of the disciplinary norms provided under the legislation of Georgia, while such [REDACTED]A were not confirmed in reality. The persons employed at the local self-governments have been applying to GYLA as well; they mentioned that they were being systematically pressured into leaving the work [REDACTED]A. They mentioned that the reasons for the pressure were the political views of the employees. The information, officially obtained by GYLA through FOIA confirms that the criminal investigation was not launched in any of such cases.

Georgian Young Lawyers' Association will continue actively working on this and other topics in the future as well.