

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Protesting Against Administrative Detention of Davit Patsatsia, Dachi Tsaguria and Beka Aladoshvili

Georgian Young Lawyers' Association (GYLA) is providing legal assistance to Davit Patsatsia, Dachi Tsaguria and Beka Aladoshvili, arrested on September 21-22, 2012.

Their cases were examined by Tbilisi City Court (judges Miranda Eremadze and Dmitry Gvritishvili), sentencing Patsatsia to 40 days, Tsaguria and Aldoshvili to 10 days of administrative imprisonment on charges of malicious disobedience to lawful orders of the police.

During the court proceedings, there were a number of flagrant violations of the law by the judges, which deprived the defense from the possibility of proving that the detainees had not committed the offence. Below is a brief overview of some of the violations:

1. As judges clarify, neither detainees nor their lawyers have the right to ask questions to the prosecution, claiming that it is not allowed by applicable legislation. This interpretation is clearly illegal and contradicts concrete norms of procedure law as well as founding principles. Para.3 of Article 42 of the Constitution of Georgia stipulates that “The right to defense shall be guaranteed” but when court prohibits a defendant or his lawyer from asking questions to a police officer who is accusing the detainee of malicious disobedience or any other offence, it is unclear how the right to defense can be guaranteed. It is further noteworthy that these judges have examined a number of cases with GYLA’s participation, without hindering formal procedure of asking questions in any way (for instance, Judge Dmitry Gvritoshvili examined the case of Davit Patsatsia on May 27, 2011 and February 25, 2012). Since then, there have not been any changes in regulations governing court proceedings; however, clearly there have been changes in approach of judges, which was extremely pro forma even without changes in the regulations. Court proceedings on September 21-22, 2012, clearly showed that the police officers were lying as suggested by discrepancies in their statements. It produces a reasonable doubt that the court prohibited the defense from asking questions in an attempt to avoid making lies of the policemen and discrepancies in their statements even more apparent.

2. The defense filed up to ten motions none of which were granted, except for questioning of police officers. Although requested by the lawyer, the court never requested video footage of cameras from the scene, highly likely to have recorded the arrest. The court did not order examination of the patrol inspector’s shirt, which the

policemen claimed was torn by Dachi Tsaguria during arrest, despite the fact that one could see the shirt had been torn with a sharp object. In Tsaguria's case, although required by law, the court refused our request about hearing statement of the police officer who drew up the record of violation first and then examining the witness police officer, in order to prevent the former from hearing statement of the latter and replicating it. In Patsatsia's case the court refused to question as a witness the person who accompanied Patsatsia at the time of his arrest, stating that the he was a stakeholder and therefore, would not give a reliable testimony. The judge did not ask questions about contradictions and discrepancies in testimonies of the policemen, and as we have already noted, neither did he allow the defense to ask questions, etc.

GYLA has appealed resolutions of the city court and calls on Tbilisi Appellate Court to create a precedent of examining compliance with the requirements of law in similar cases.

Analysis of the cases creates a reasonable doubt that the individuals concerned were arrested due to their political and civil activities, as opposed to a violation of law.

We would like to also highlight that according to D. Tsaguri and B. Aldoshvili, at the time of their arrest as well as after they were taken to the police station, they were beaten by a group of police officers. Men dressed in civilian uniforms also participated in their beating at the police station. According to the detainees, after the beating police officers started ridiculing and verbally abusing them. Signs of physical abuse were confirmed by representative of the public defender who visited D. Tsaguria at the pre-trial detention isolator.

Once more, GYLA categorically condemns inhumane treatment against any individual and calls on the office of the prosecutor to immediately launch an investigation. We'd like to remind to the law enforcement authorities that Articles 100 and 101 of the Criminal Procedure Code directly stipulate obligation of the law enforcement authorities to launch a probe immediately based on reports about criminal offence. We remain hopeful that at least this time investigation will be conducted in a prompt and effective manner, and any future systemic failures will be prevented.