



გ ა ნ ც ხ ა დ ე ბ ა

საიას შეფასება რუსული კანონის სანინააღმდეგო პროტესტის დროს დაკავებული საბა მეფარიშვილისა და ომარ ოკრიბელაშვილის საქმეზე



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GYLA's assessment on the case of Saba Mefarishvili and Omar Okribelashvili, who were arrested

during the protest against the Russian law

As it is publicly known, GYLA **monitors** criminal cases. Among others, GYLA is also monitoring the case of Saba Mefarishvili and Omar Okribelashvili, who were arrested during protests against the so-called "Russian law." On September 23, 2024, a court session for their criminal case was held.

The state indictment accuses Saba Mefarishvili and Omar Okribelashvili of committing the crime outlined in Article 187, Part 2, Sub-paragraph "c" of the Criminal Code of Georgia, which pertains to the **damaging or destruction of property by group of people**. This offense is punishable by three to six years of imprisonment.

According to the factual circumstances of the case, Saba Mefarishvili and Omar Okribelashvili have been charged with damaging an iron protective barrier near Parliament, valued at 400 GEL. As revealed during the court session, the damage has already been compensated.

At the court session on September 23, the defense once again sought to have the previously imposed imprisonment replaced with a less severe preventive measure. The defense proposed either personal surety or, alternatively, a minimal bail amount of 1,000 GEL. The defense presented signatures from 66 individuals standing as guarantors for Saba Mefarishvili and Omar Okribelashvili, including current and former members of parliament and a former public defender. The defense argued that there was no risk of the accused fleeing, noting that they had not attempted to cross the Georgian border, and no risk of witness tampering, as the main witnesses were law enforcement officers. The lawyers also emphasized the young age of the defendants [] and 23 years old [] with the nature of the charges and the fact that the damages had already been compensated. They argued that these factors did not justify the need for such strict preventive measures. However, the court did not accept the defense's arguments and kept the defendants in custody.

According to GYLA's position, the objectives of preventive measures in this case could have been met with a less severe approach. The court, however,

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continued a troubling pattern that GYLA [] 13 years of judicial monitoring consistently reveals. ¹ Specifically, the court failed to adequately assess the use of imprisonment as a preventive measure. Given the significant interference with an individual [] right to freedom, imprisonment is the most severe type of preventive measure, as it isolates the accused from society. It should only be applied when incarceration is the sole way to mitigate the long-term risks posed by the accused. ² The prosecution must always demonstrate the necessity of such custody under the standard of reasonable presumption to justify its use.

The observation of Saba Mefarishvili and Omar Okribelashvili's case reveals that the court [] decision to impose imprisonment is not justified according to the appropriate standard of proportionality. The threats posed by the defendants were assessed in an abstract manner, and the court failed to consider that the objectives of preventive measures could have been achieved through less severe alternatives.

It is also noteworthy that the next court session was scheduled a month and a half later [] November 11. **The delay was attributed to waiting for cases subject to amnesty in October and a backlog of pending cases, many of which have time-frame issues. However, as of the hearing on September 23, the amnesty law had not yet entered into force, making the judge's rationale for prioritizing these cases unclear.** GYLA's 13-year monitoring of the judiciary reveals that case delays are frequently caused by the late commencement or postponement of hearings, an issue the court often fails to address adequately. ³

It should be noted that the substantive discussion of the case has only just begun, with only two witnesses questioned so far. GYLA will continue to monitor the case closely.

Since 2011, GYLA has been monitoring criminal justice processes using pre-developed methodologies and questionnaires. To date, the organization has prepared 18 criminal justice process monitoring reports, issued two special reports, and developed a criminal justice process monitoring manual. The aim of this monitoring is to enhance the transparency and accountability of the justice system, identify challenges within the criminal justice process, and provide the public with objective information on high-profile criminal cases.

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see Statements of GYLA:

- [1. GYLA Monitors Criminal Case Proceedings against the Demonstrators Opposing the Russian Law](#)
 - [2. As part of the monitoring of criminal cases, GYLA will observe the court sessions of Vitali Guguchia](#)
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1 GYLA reports are available on the website: www.gyla.ge;

2 GYLA, Results of the Four-Year Monitoring of Criminal Justice Processes, Trends and Current Challenges, 2021, 19.

3 Ibid