

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Media Legal Defense Center responds to the information released by "Tabula"

According to the information released on the [web-page of the TV Company "Tabula"](#), on August 24, 2013 while recording police raids in Tbilisi, Patrol Police stopped Giorgi Sikharulidze, the journalist from "Tabula". As Tabula reports, Police abused the journalist verbally, searched him and destroyed the filmed video.

According to Para.3, Article 91 of the Law on Police, Police should introduce himself to

a person whom he stops and submit relevant documents certifying his authority. Moreover, reported information contained signs of offence provided for by the Criminal Procedure Code of Georgia.

Neither the Law on Police nor any other legislative act confers Police the right to prohibit video recording while stopping and implementing general inspection of an individual, or conducting of any other police authority, including raids. Competences of the Police that are not directly prescribed in relevant normative acts are prohibited by the Georgian Constitution. Prohibition of stopping, general inspection and video recording is among such conducts. Destroying of filmed video by the police is also illegal act.

In the case *Levan Izoria and David Mikheil Shubladze v. the Parliament of Georgia* the Constitutional Court ruled in its April 11, 2013 judgment: “the requirement of definiteness is especially strict in terms of the norms determining police functions (operations) which cause restriction of the constitutional rights. Constitutional obligation to regulate strictly and explicitly police authorities comes from the principle of definiteness of legislation.”

The Constitutional Court of Georgia also ruled that police can stop and carry out general inspection of an individual only in open space, rather than in police building or in other closed facility. GYLA considers that exercise of such right in public places rather than in police building is a guarantee to avoid risks of pressure on individuals under public supervision which might take place while placing an individual in the closed institution. Accordingly, public opportunity to observe and determine the process of stopping and inspecting individual is a key guarantee for deterring police misconduct.

Further, an individual can be stopped on the basis of a reasonable doubt that he has committed an offence. The Constitutional Court explains in its judgment that “reasonable doubt should be based on the fact, circumstance or their unity, which can convince an impartial observer on the reasonability of such doubt.” The Ministry of Interior failed to provide any explanation about the fact, circumstance or their unity that helped policemen conclude that Giorgi Sikharulidze had already committed or could have committed the offence or created any risk to the police. The Ministry of Interior also failed to provide explanation in terms of other individuals. So far, the Ministry only announced that the fact of offence is not verified in the case concerned.

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However, before making such conclusions, it would be appropriate if law enforcement agencies at least question the person who reports about alleged fact of offence. Otherwise, impartiality of investigation is questioned.

We call on the Ministry of Interior to refrain from releasing general statements and to respond in details whether police actions were carried out in terms of Giorgi Sikharulidze or not. If the Ministry confirms the fact, we ask to specify the measures, envisaged by the legislation, that were implemented by the police and factual circumstances for applying the measures. As reported, information released by the journalist contains signs of alleged offence. When there is information on alleged offence of the police, investigation should be carried out by the General Prosecutor's Office of Georgia. This is explicit requirement of the Georgian legislation and we appeal the Prosecutor's Office to express interest to the information.