

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Response to the October 10 Statement of the Ministry of Internal Affairs

On October 9-10, 2013, GYLA released statements about cases of [Davit Kapanadze](#) and [Levan Korkotashvili](#). D. Kapanadze was visited by GYLA's chairman while L. Korkotashvili held in Dusheti pre-trial detention isolator was visited by lawyer from GYLA's office in Dusheti. These statement saying that information provided by the foregoing individuals suggested that police officers had possibly committed crime were based on their personal account of events. The statement called for

investigation by the office of the prosecutor.

In response to GYLA's statement about L. Korkotashvili's case, the Ministry of Internal Affairs released an official statement on October 10, saying that the information provided by GYLA "is not true". According to the very same statement, "Korkotashvili underwent surgery for lower jaw fracture on September 30 and had a jaw clincher installed. According to medics Korkotashvili is able to dislocate jaw clincher on his own. Currently he is in good health and does not require medical attention." The statement also noted that "similar statements are aimed at discrediting police and it is owing to release of fabricated information that image of police often suffers."

In response to MIA's statement we would like to state the following:

1. Georgian legislation provides a simple rule that law enforcement authorities often fail to abide by: crimes allegedly committed by police officers must be investigated by the office of the prosecutor instead of the Ministry itself. According to the MIA's statement, GYLA's information "is not true"; however, grounds for MIA's categorical findings are ambiguous. MIA has no right to investigate similar cases, while it is impossible to establish such facts without investigation. Further, MIA's statement was released several hours after GYLA's statement, meaning that even if MIA had the right to investigate it would have been impossible from legal and physical point of view to assertively establish any such facts in such a short time-frame.

2. Both the Ministry's official statement and the official comments made by the Internal Minister on TV expressed preliminary conclusion that police officers had not committed crime, which amounts to a direct message conveyed to investigations about what line the investigation should follow. Considering that in similar cases (and possibly in other types of cases) investigators have never diverted from the official position of the Ministry, chances of determining objective truth are extremely slim. Determining outcomes of investigation in advance by means of official statements of the Ministry or the Minister's official comments made on TV is prohibited and unacceptable. In light of the reality similar statements make investigation pointless. Furthermore, such statements assume the function of investigation as they respond to questions that only investigation may answer based on applicable legal proceedings.

3. The MIA's statement also notes that Levan Korkotashvili had been previously convicted six times, the fact which may never justify any violence or crime possibly

committed by the police (notably, according to official materials of the case provided by the Internal Ministry, L. Korkotashvili has been convicted four times before, not six). Despite the number of times an individual has been convicted before, s/he should be given the possibility to continue living peacefully; if s/he fails to utilize this chance, investigation should be conducted as prescribed by law while any violation of applicable stipulations of the law may not be justified by previous convictions of the individual concerned, notwithstanding the number of convictions. We remain hopeful that this simple truth will be accepted without a dispute.

4. The statement notes that L. Korkotashvili underwent a surgery for lower jaw fracture and “is able to dislocate jaw clincher on his own”. We do not dispute the fact that Korkotashvili underwent the surgery and it is possible that he is able to dislocate the clincher on his own; however, this does not mean that what Korkotashvili told GYLA’s lawyer is not true – that police officers damaged his jaw as a result of physical violence. If it is the official position of MIA that the possibility of self-inflicted injury rules out the possibility of inflicting injury by the police, it would be easy to blame any injury on self-harm. Similarly, in theory, D. Kapanadze could have self-inflicted injury on his chest and broken his own three ribs but there are better chances that the reality is different. What happened in fact is the question that must be answered by the investigation; however, clearly the MIA refuses to wait for the results of the investigation.

5. Oddly enough, the Ministry’s statement highlights that L. Korkotashvili is currently in good health and “is in good health and does not require medical attention.” Following dislocation of metal plates from his jaw, he states that he is unable to eat, suffers from severe pains and that he is taking pain killers. Therefore, it is peculiar that the Ministry rules out the need of medical attention.

6. Regrettably, the MIA has leveled an accusation against GYLA saying that “similar statements are aimed at discrediting police and it is owing to release of fabricated information that image of police often suffers”. Such statement were typically made by law enforcement authorities in response to GYLA’s harsh criticism. We have only repeated what the victims have told us in person. Neither the last two and nor earlier statements indicate that the police have in fact committed a crime. The main message that was being conveyed was that the reports of the foregoing individuals suggested that crime had possibly been committed and that the office of the

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prosecutor was obligated to institute investigation. Regrettably, ordinary activities of a human rights organization are viewed as discretization of police and tarnishing of their image, which is a wrongful perception of functions and the purpose of a non-governmental organization.

We have no illusions that reforms and changes are easy at the Ministry of Internal Affairs where thousands of people work. We also understand that we will not be able to create a system in which there is a zero chance of violence by the police against citizens. Rather, actions in response to similar facts are important, as well as effectiveness and objectivity of investigation. Due administration of investigation is the most effective mechanism for preventing any future occurrences of undesirable facts. It seems that in the present there is no will of the authorities to use the mechanism. Such responses to similar facts are in fact the reason why the image of the system suffers.