

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Statement about Investigative Activity Conducted in terms of Levan Maruashvili

[According to the released information](#), on February 14, 2014 Levan Maruashvili was examined in the prosecutor's office under the witness status, while prior to interrogation his apartment has been searched. As reported, his examination might be linked to one of the charges submitted against Bachana Akhalaia.

We would like to specify which procedures should be observed for conduct of search and examination of individual under the witness status.

As per Article 112 of the Criminal Procedure Code of Georgia, investigative activity that restricts private ownership or possession is implemented on the basis of the court ruling, or upon agreement of co-owner/co-possessor, one party of the communication, that is sufficient for its conduct without the court ruling. In case of urgent necessity, it shall be carried out by the prosecutor's resolution which further needs to be legalized by court. It should be noted that the consent of the owner shall be obtained in advance, rather than after finishing the investigative activity. However, as Levan Maruashvili reports, he was forced to sign the agreement on conduct of search, when the procedure had already been finished, which is clear violation of law.

Furthermore, being brought in the Prosecutor's Office, he was interrogated under the witness status. It is important to note that, as per Article 332 of the Criminal Procedure Code of Georgia, in the course of investigation, witness is examined as per Criminal Procedure Code of February 20, 1998. As it follows from the Article 195, the witness is summoned to the investigator or the prosecutor under the writ. The witness shall appear upon the writ of the investigator, prosecutor, court (Article 94 (1) of the CPC), while if the concerned individual fails to appear, s/he is brought forcefully (Para 2, Article 94). As Maruashvili reported, he was brought forcefully without submitting the writ in advance, which is also violation of legislative requirements.

GYLA calls on the investigative bodies, to be bound with legislative requirements and to observe legislative procedures in each specific case.

We would like to state once again our negative attitude to postponement of the new rule of witness examination until December 31, 2015, which makes adverse affect on development of criminal justice and delays participation of parties in criminal proceeding on equal footing.