

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Statement on Illegal Actions against Inclusive Foundation

Georgian Young Lawyers' Association (GYLA) condemns illegal actions of the Ministry of Interior Affairs' (MIA) officers against Inclusive Foundations and calls for immediate response to campaigns waged against NGOs recently. According to the December 23 press release of Inclusive Foundation, on December 15, 2009, at 7:00 pm the organization was raided by the police, who did not wear police uniforms and did not provide a search warrant at the request of the organization members. The also refused to reveal their identity. The police officers searched thirteen individuals present at the office, while making degrading, humiliating, abusive and threatening remarks toward the organization members. Paata Sabelashvili, the leader of the

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organization was arrested and charged with drug possession.

GYLA is representing the defendant.

GYLA is the first to evaluate the noted incident. We emphasize following violations of law:

- Those present at the office were searched without a warrant. Their cell phones were seized, although it is unclear whether substantial evidence existed that they were hiding an item to be found;
- Police officers searched individuals that arrived at the office later without a search warrant, although it was impossible for them to hide the item to be found, as they were not present when police officers started searching;
- Personal search reports were not drawn up and the office search report was not handed;
- Regulations of law were violated during the search and seizure at the foundation; more specifically: packages seized were not bagged and sealed on spot. As the defendant declares, all three packages were placed in a black plastic bag, rolled over and kept that way (one of the police officers put it in his pocket). The defendant signed the seal later at the police station. It shall also be noted that all items and documents found during the search shall be first presented to officers engaged in the investigative activity, their detailed description shall be recorded in the report and bagged and sealed when possible. Apart from the seal, the bagged item shall be displaying date and signatures of those officers who participated in the investigative activity. An item or a document obtained as a result of an unlawful search, through violating noted regulation loses or does not acquire the meaning of evidence and is inadmissible in trials to substantiate the accusation or the verdict of guilty.
- Under the law, officers performing the search shall “avoid damaging lock, door or any other item and disturbing an order at an apartment or any other premises to be searched as much as possible”. During the search of the Inclusive Foundation office unnecessary damage of items occurred on part of searching officers. LGBT posters were torn down. Noted actions could have never been relevant to purpose of the search to find and seize the evidence of an offence or and item obtained illegally. Under Para 2 of Article 4 of the Law on Police of Georgia, discrimination is forbidden, while Article 3.3. of the Police Code of Ethics of Ethics specifies that “policeman shall fulfill imposed duties justly, impartially and shall ensure equality of every citizen before law, regardless of race, sex, language, religion, political or other opinions, national, ethnic and social belonging, origin, education, property and title, place of residence or any other personal condition”. Under the “10 Basic Human Rights

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Principles” of the organization Amnesty International, law enforcement officers shall provide particular care and attention to such vulnerable groups as minorities while fulfilling their duties. Apart from the above mentioned procedural violations, we consider that abasement of dignity of sexual minorities by MIA officers during fulfillment of their duties, as well as the use of uncensored vocabulary, threats made against foundation members, use of homophobic expressions intended to intimidate them, is directed against ethical norms and is discrediting MIA at the same time. Under the Disciplinary Regulations of MIA and the Police Code of Ethics, noted circumstances provide basis for MIA officers’ legal liability. GYLA calls on MIA’s General Inspection and other relevant bodies to examine violations listed in the statement immediately and exercise legal liability measures against individuals concerned.