

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Statement of GYLA in reaction to unfair restriction of the right to peaceful assembly against members of the Alliance of Patriots in Gori

GYLA releases this statement in reaction to the November 12 incident in Gori, when law enforcement authorities interfered with the right to peaceful assembly without a legal cause, in violation of the Georgian Constitution and applicable legislation.

Chronology of Developments

On November 11, representatives of political union Alliance of Patriots office in Gori started a hunger strike outside Gori Theatre, so did representatives of the union in Tbilisi. Their demands included changing of the election system and dismissal of ministers who engaged in the elections.

According to protesters, the police had been visiting them since the beginning of the hunger strike but they started urging them to stop on day 2 of the strike. First they said that they needed to protect protesters from the weather; later they said that the protesters were defacing the city's appearance. The protesters refused to leave.

The protesters were occupying the square of Gori Theatre, without obstructing traffic. Therefore, they believed that the strike did not violate requirements of law.

According to representatives of the Alliance of Patriots, on November 12 they notified Gori City Hall's supervising service about the police intent to disperse the rally; in response, representatives of the supervising service stated that because the protesters did not violate law, they would apply to law enforcement authorities with a written request not to disperse the rally.

According to the protesters, on November 12 at round 18:30, several police vehicles approached the nearby territory. Nearly fifteen police officers got out of the vehicles and demanded that the protesters leave voluntarily. After the protesters refused to leave, they used force to take down protesters' tent and remove the flag of the political union. Policemen did not use force against protesters during or after the dispersal.

MIA press-service released a statement on November 13, as broadcasted by Trialeti TV and Radio Company, saying that the police took down the tent due to meteorological conditions, based on a request received from Gori City Hall, in order to protect citizens' life and health. Trialeti TV and Radio Company also reported that press service of Gori City Hall declined having anything to do with the dispersal.

Later at about 19:30, police representative contacted protesters and summoned them to police station for questioning. Protesters responded that they couldn't arrive at the station because they continued the hunger strike in Gori Office of the Alliance of Patriots. This was the last time they heard from police.

Legal Opinion

The fact that the authorities cited different causes for the dispersal during communication with protesters and in its official comments suggests that the actual goal of the authorities was to disperse the rally, instead of protecting the city's appearance or interests of protesters.

The protesters did not violate stipulations of the Code of Administrative Offences of Georgia, including Article 150 that prohibits making of various types of inscriptions, drawings or symbols on building facades, shop windows, fences, columns, trees, also putting up placards, slogans, banners at places not allocated for this purpose, or leaving fences and buildings unpainted.

The authorities did not have the legal right to interfere with the protest on grounds of protecting health of protesters. Such interference is allowed only when actions of an individual concerned reach certain level, posing a serious and a real threat to others^[1], which was not the case.

Therefore, we believe that the present case involves violation of right of citizens to gather indoors or outdoors, publicly and unarmed, without prior permission, as guaranteed by the Constitution of Georgia and the Law on Assemblies and Manifestation.

GYLA urges the authorities to ensure protection of rights recognized by the Constitution and not to place limitation on freedom of peaceful of assembly and expression without a legal cause (defacement of a self-governing entity does not amount to such cause).

GYLA will study actions of Gori City Hall and law enforcement authorities in response to the hunger strike and will update public with detailed information.

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[1] See, for instance, October 24, 2015 decision of Georgian Constitutional Court in Beka Tsikarishvili v the Parliament of Georgia