

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



Statement of NGOs about illegal detention of Director of the Institute for Development of Freedom of Information Mr. Giorgi Kldiashvili

On December 12, 2014 the Department of Criminal Police of the Ministry of Internal Affairs (MIA) of Georgia detained the Director of IDFI Giorgi Kldiashvili. He was charged with illegally carrying a firearm. Mr. Kldiashvili was taking his antique firearm for maintenance and care; he went with his registered permit for the firearm. He did

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not have an additional official specific permit from the Service Agency of the Ministry of Internal Affairs of Georgia for the transportation of the antique firearm. Representatives of MIA initially stated that Giorgi Kldiashvili's conduct was to be classified as an administrative offense and he would be fined for it. However, Mr. Kldiashvili was charged with a criminal offense (illegally baring firearms) pursuant to the Article 236, Part 2 of the Criminal Code. This charge carries a a punishment of a fine or imprisonment from 3 to 5 years. Giorgi Kldiashvili was interrogated for 3 hours by MIA officers, and then taken into custody. He was placed in isolation, so called "Module's" premises where he was detained for 2 days.

Giorgi Kldiashvili cooperated with police officers fully. He showed the police officers the firearm on his own (the gun was dismantled with no magazine); went to the police station on his own free will without any force by the police officers; answered all the questions asked during the interrogation; and acknowledged that he had an official permit for the firearm and he took the gun to a serviceman as it needed repair. Despite this cooperation, the law enforcement authorities took him into custody and detained him in isolation.

At the court hearing, the prosecutor did not manage to justify the detention of Mr. Kldiashvili for 2 days, nor provide reasons why there may have been a risk that he might abscond. The court's conclusion is that the detention is a significant violation of the requirements prescribed by the Article 171 of the Criminal Code of Georgia that provides for a ground for releasing a detainee. That is, the court affirmed the fact that representatives of MIA violated the existing statutory requirements against Giorgi Kldiashvili. Taking into account all the relevant circumstances, the court released Mr. Kldiashvili from detention on bail of 1500 GEL.

According to Giorgi Kldiashvili after his detention MIA representatives talked to him about the activities of the non-government organization he heads up, and the civil rights campaigns Giorgi was involved in. MIA representatives alluded to the "Affects You Too" campaign in a negative context, asking why Giorgi had been speaking and publicly debating extensively the issue of illegal surveillance. We like to underline that no matter what violation a person is accused of, we perceive it absolutely unacceptable for the police representatives to make references to the civil activities in which an accused person might be engaged.

In our opinion Giorgi Kldiashvili violated the requirement of law of Georgia by taking

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his firearm to be serviced without the appropriate permits for carry a firearm. Giorgi Kldiashvili admitted himself that he violated this specific legal requirement. Though, we [] like to underline hereby that Giorgi Kldiashvili [] conduct represents an administrative offense rather than a criminal offense regulated by the Criminal Code of Georgia. In particular, pursuant to the Article 181 of the Code of Administrative Violations [] of rules of carrying the owned firearms that are committed by the citizens obtaining official permits for keeping the owned firearms issued by MIA authorities” are classified as administrative offense.

Detention which the court confirmed was illegal; the incorrect classification of the case as criminal, when in fact it was administrative; and the questions about Mr. Kldiashvili [] civil activism lead us to believe that Giorgi Kldiashvili [] vigorous professional activity and his involvement in public campaigns inspired the police [] actions taken against him.

Therefore, our requirements are as follows:

- 1.an immediate investigation into the legality of the actions take by law enforcement representatives and where violations are discovered the sanctioning of perpetrators;
- 2.To cease criminal prosecution against Giorgi Kldiashvili as there is no action in place prescribed by the criminal law (Criminal Code of Georgia, Article 105);
- 3.Top officials to restrain from making offensive and inciting remarks in relation to NGOs, similar illegal and inadequate reactions on the part of law enforcement authorities.

- 1.Georgian Young Lawyers’ Association (GYLA)
- 2.„Transparency International - Georgia“
- 3.Open Society – Georgia Foundation (OSGF)
- 4.Civil Development Agency (CiDA)
- 5.Human Rights Education and Monitoring Center (EMC)
- 6.International Society for Fair Elections and Democracy (ISFED)
- 7.Human Rights Center
- 8.Public Advocacy
- 9.Human Rights Priority
- 10.Article 42 of the Constitution

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11. Association "Green Alternative"
12. Liberal Academy - Tbilisi
13. Georgian Charter of Journalistic Ethics
14. Economic Policy Research Center
15. International Center for Civic Culture
16. Civil Society and Democracy Development Center
17. NGO "Identoba"
18. Georgian Association of Regional Broadcasters
19. Civil Development Institute (CDI)