

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's statement about yet another unreasonable postponement of Gigi Ugulava's trial

As reported, hearing on Gigi Ugulava's case was postponed again for the prosecution's absence. At the hearing appointed for June 10, 2014 the court should have reviewed restoration of his authority as a Mayor. Another hearing appointed for June 5 was also postponed for the same reason. According to the statement of the state prosecution, represented by four prosecutors, failure to appear at the session was motivated by prosecutors' business trip in Batumi, where they were attending the

seminar about cybercrime and at the same time were providing support to state prosecution on one of the criminal cases. The court does not consider appropriate to review the motion without attendance of the prosecution, accordingly it postponed the hearing.

GYLA considers that postponement of the hearing on the case is not motivated from legitimate purposes and allegedly it intends delay of the case examination.

The law provides that, court hearing may be postponed only in case of reasonable excuse. Criminal Procedure Code gives the following explanation to the reasonable excuse: **“absence of the party to the criminal process to appear at the trial for the reason of illness, death of a close relative or other special independent objective circumstances which inhibit him to appear at the trial.”**

The excuse brought by the prosecution could not be considered reasonable, since the business trip in Batumi in parallel to the date of the court hearing could not be considered as the independent objective circumstance, that deprived of the opportunity to attend the trial. Furthermore, in the instant case, state prosecution was implemented by four prosecutors, therefore it is less convincing that none of the prosecutors' managed to attend the hearing.

On the other side, failure of the party to appear at the hearing does not inhibit examination of the case. It means that the judge could have refrained from postponement of the trial and was authorized to examine the motion irrespective of the prosecutor's absence, since the demand to postpone the hearing was unreasonable, while the interest of timely examination of the case was high from the side of the public and the defense (especially, when the Constitutional Court considered unconstitutional the norms of the law, which served as the basis for dismissing directly elected Mayor).

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GYLA notes that unreasonable delay of the case by the prosecution was also observed in another high profile criminal case. Namely, in 2013 examination of the case was delayed unreasonable in Bacho Akhalaia [] case. Prosecution failed to ensure state prosecutor on several hearings, while the excuse was as unconvincing as in the instance case (health condition of the prosecution, while no health certificate was submitted at the trial and new prosecutor [] request to postpone the hearing under the motive to study the case materials).

Article 4 of the Law on Prosecution provides that, principles of the prosecution are: **აღიარებულია impartiality and political neutrality.** GYLA calls on the prosecutor [] office to refrain from the forgoing practice in the instant case as well as in other criminal cases and to abstain from deliberate delay of the case, since it prejudices private and public interests, raises questions about alleged political motives and tarnishes the image of the key law enforcement agency.