

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Statement on the Developments in Kvareli Municipality

As already known, on April 25, 2014 the police arrested the elected Governor (Gamgebeli) of the Kvareli Municipality and Judo Federation President – Davit Qevkhishvili. The police also arrested three Village Trustees (persons appointed by the Governor) of the Municipality, “Georgian Dream” members and citizens, total of 17 persons. The police detained the Governor for petty hooliganism, and his supporters - for both petty hooliganism and disobedience of the legal request of the police. The police detained Governor's supporters on the street, when they protested the detention of the Governor. According to the police, the detained persons verbally abused the City Council (Sakrebulo) members and threw the eggs at them. On the

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same day, the court imposed a fine of 100 GEL on the Governor and a fine of 400 GEL on his supporters. GYLA Telavi branch office lawyer provided legal representation to the five (5) detained persons, among others - to Davit Qevkhishvili at the court proceeding.

According to the available information, the Kvareli Municipality City Council dismissed the Governor from the position.

According to the police, the Governor verbally abused the City Council member - Temur Mangoshvili, which resulted in a distortion of public order. At the same time, the video recordings aired by media on April 25 show that the City Council member, Tengiz Gugoshvili physically abuses one of the persons detained by the police; however, the police does not respond to this action. The employee of the City Hall (Gamgeoba) - Nino Khutsishvili told GYLA that there are video recordings, showing that the City Council member - Gugoshvili is verbally and physically abusing her in front of the police and in front of the other persons on the same day; however, she says, the police did not react to that fact.

According to the Article 166 of the Code of the Administrative Violations, "Petty Hooliganism is abusing/swearing in public; conducting insulting incitement against citizens and other similar actions, which distort public order and the peace of the citizens." The correctness of the legal qualification of the actions of the D. Qevkhishvili is disputable. In this regard the court interpretation would be of great interest. It is also to be examined, whether the police was acting consistently and whether the police conducted the detention selectively, arresting only one of the confronting sides. If in one case the verbal abuse by the Governor amounted to the violation, why wasn't the physical and verbal abuse by the City Council member considered as the violation? If the police immediately responded to the Governor's actions, why the police did not respond at all to the actions of the City Council members, who confronted the Governor, while those City Council members verbally and physically abused the persons in front of the police, among others, the person detained by the police?

It is also notable that the representatives of the law-enforcement authorities were present in the building because of the written request of the City Council chairperson, to ensure conducting the closed session of the City Council in the peaceful manner.

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According to the City Hall employees, the police was present in the building from the morning and did not allow anyone to enter the City Council session.

The legality of the session is under the question: according to the Article 25 of the organic law of Georgia on the “Local Self-Government”, the City Council session has the authority if more than half of the City Council members attend the session; the City Council rules on closing the session if the disclosure of the specific information to be considered during the session is prohibited or restricted under the law. The question is – why was the City Council session closed? Clearly, disclosing the issue of dismissing the Governor is neither restricted not prohibited under the law.

It is also to be examined – was the session agenda drawn up and was it publicized according to the procedures prescribed under the law? The authority of the conducted session is also questionable: was the City Council’s session in power to make the decisions? Was the quorum achieved? Specifically when and in which circumstances did the City Council make the decision on the Governor? According to the information available to GYLA, Davit Qevkhashvili was informed of being dismissed from the position of the Governor only after the detention, during the court proceeding. According to Davit Qevkhashvili, he was not invited to the session, he did not have the information about the agenda and the topic of the session.

It is notable that the City Council attempted to dismiss the Governor from the position on April 24 as well; however, the City Council failed to do so. The supporters of the Governor accused the Deputy Minister of the Internal Affairs – Giorgi Zedelashvili of conducting pressure on the City Council for enforcing his own staff agenda in Kvareli. Davit Qevkhashvili told GYLA that the campaign against him is related to the upcoming local self-government elections and said that this process was ongoing for three months already, however, no-one took an interest to examine those facts.

By dismissing the incumbent Governor, the Kvareli Municipality City Council violated the recommendation of the Inter-Agency Task Force, which calls on the local self-government authorities to refrain from implementing the significant staff shifts in the pre-election period. The recommendation implies refraining from dismissal of the persons from the managing positions (Governor, City Council chairperson), among others, through the impeachment, to avoid such actions being perceived as an attempt of politically motivated dismissals and attempt of influencing the election

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results.

In addition, the developments in the Kvareli Municipality once again reflect the problematic nature of the provisions of the new Code on the “Local Self Government”, which provide the procedures for declaring mistrust towards the elected Mayors and Governors. According to the amendments, the City Council is granted the right to initiate the mistrust declaration procedures against the Mayor/Governor elected by the people, even without factual or legal grounds. We consider that this amendment creates the risks for stability and independence of the elected officials and diminishes the essence and the significance of the direct elections.