

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



NGOs call on the state authorities to conduct the process of restoration of violated rights effectively

We are deeply concerned for the murder of the businessman Besik Khardziani and convey our sincere condolences to his family and relatives. We call on the state authority to investigate the murder case immediately, comprehensively and impartially, to reveal offenders and to ensure their severe punishment according to the law.

Besik Khardziani ☐ murder case, as alleged retribution against one of the active

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supporters of the justice restoration process, aiming intimidation of other supporters as well, attracted public interest from the very start. This tragic fact may be considered as continuation of Iuri Vazagashvili [] murder, directed against active citizens fighting for establishment of justice. On the other hand, public discussions became active that unless state ensures proper conduct of justice restoration process, it may be carried out by some concrete individuals.

Even before 2012 not only local NGOs but also international organizations and partner states stressed the necessity of investigating case of mistreatment committed in 2004-2012 and the need for adequate response. After elections, the necessity of restoring violated rights of citizens was noted in the reports of many international experts and organizations.

The UN Committee on Civil and Political Rights stated in its 2014 report that: The state party should investigate past violations * [] should take all necessary measure to guarantee the right of victims to an effective remedy in accordance with Article 2, Paragraph 2 of the International Covenant on Civil and Political Rights.

Further, in his 2014 report, EU special representative Thomas Hammerberg notes that, [] **should be clear on how it plans to react in response to the complaints. Absence of clear policy with fair solutions might promote an increase of unnecessary tensions with society, as well as continually violate the rights of victims. The state needs to elaborate a compensation strategy, even if it may face financial constrains to adequately compensate all victims."**

The same is provided in the 2014 report on fulfilment of obligations undertaken in the framework of EU neighborhood policy, namely the document states that:

[] **the state should establish an independent and effective complaints mechanism and address complaints on property rights violations, torture and ill-treatment and misuse of the plea-bargaining system."**

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The UN special reporter in his latest assessment also stresses the necessity of restoring violated rights: **“There has been significant prosecutions and convictions for the torture and abuse in the recent past, but large legacy remains and hundreds of victims still demand an effective remedy.”**

Nevertheless, justice restoration process is delayed and ineffective. The state’s vision and plans have changed several times in that direction and positions remain to be unclear in terms of some critical issues, while their resolution is crucial for restoration of violated rights. Further, there is no precise response if individuals who had been directly or indirectly involved in the cases were dismissed from law-enforcement structures, and if they are still in the office what is a safeguard of their unfavorable influence on the cases in the process of justice restoration.

In addition, there are some questions about the mandate and effectiveness of the newly established department in the Prosecutor’s Office. An important flow in the department’s mandate is that it does not extend to the investigation of certain types of human rights violations which took place in 2004-2012, e.g., the cases of illegal and unsubstantiated deprivation of liberty.

Delayed justice causes confusion in public, instills fear and declines public trust towards state institutions and the judiciary system, in general. Therefore, considering risks that might result from the feeling of insecurity in public and public initiative to restore justice, we call on

The government of Georgia:

-To work out immediately, with active involvement of civil society and conduct of public discussions, concrete and effective strategic document for restoration of violated rights;

The Parliament of Georgia and relevant agencies of the executive branch;

-To analyze critically applicable legislative and institutional frames and assess necessity of possible amendments with a view to ensure restoration of violated rights;
-To carry out steps for elaboration of the relevant legislative and institutional frame, with a view to create real possibility for restoration of violated rights.

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Prosecutor's Office of Georgia:

- To ensure immediate, effective and transparent investigation of foregoing cases;
- To carry out all measures with a view to avoid conflict of interest in law-enforcement agencies in the process of investigation;

Parliament of Georgia:

- To carry out effective parliamentary control over the activities of executive branch in that direction;
- To take a lead in effective conduct of justice restoration process.

Georgian Young Lawyers' Association

Georgian Bar Association

Human Rights Center

Article 42 of the Constitution

Business and Economic Center