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GYLA demands prompt investigation on the ill-treatment taken place in Batumi

On April 2, a story of a person detained in Batumi during a curfew became known to the public, in which he talks about the physical and verbal abuse by the policemen. The State Inspector's Service launched an investigation into the above mentioned on April 4. GYLA, who defends interests of the injured person, calls upon the investigative body to conduct an effective, objective and unbiased investigation in a timely manner in order to identify signs of the alleged offence in the actions of the law enforcement officers and to impose proper measures of liability upon them.

On April 4, the injured person gave detailed testimony to the investigator of the State Inspector's Service. According to him, on April 2, 2020, at approximately 23:45 p.m., he left home to buy medicine at the pharmacy. He could not buy desirable medicine at one of the pharmacies and asked the police crew stationed on the same street for permission to get to a pharmacy located on the other side of the street. The patrol police crew gave him verbal consent, after which he continued the way to the second pharmacy. Shortly after that, he was approached by another patrol police crew

moving on the same street. Two persons dressed in police uniforms and one person dressed in civilian clothes got out of the car. One of the policemen addressed him with the following words: “Boy, where are you going, don’t you know that it’s a curfew”, to which he explained that he was going to the pharmacy to buy medicine and had verbal consent for that from other police officers. The injured person recalls that police officers aggressively addressed him, that is why he was about to film the conversation on his cell phone, which irritated the policemen even more. One of the police officers forcibly took the phone from him and addressed other policemen out loud - “Go ahead, put him in the car.”

Afterwards, they forcibly laid him down to the ground and handcuffed him. His explanation, that he had problems on the spine and he would get into the car himself, was not taken into account by the policemen and he was forcibly put in the car. In the meantime, he hit his head on the car body several times. The policemen kept putting pressure on him even in the car. One of the policemen pressed down on his head with knees, and also he was hitting him in the area of the spine. He suffered severe physical pain as a result of the physical pressure exerted on him during transportation. During the transportation, he was also verbally abused. He was taken to Batumi Police Station #2, where he was also physically and verbally abused.

He was at the police station for approximately 2 hours, without a lawyer. Despite his request, to give him the possibility to contact a lawyer, the police officers refused him and explained that, it was a curfew time and the lawyer could not come. He was taken from the police station to a temporary detention department. During transportation, additionally, he was subjected to psychological pressure and threat by the policemen. Upon entering the temporary detention isolator, he noticed that the injuries on his body were inflicted by the policemen.

The next morning he was transferred from the temporary detention isolator again to the Police Station #2. In the department, one of the same police officers verbally insulted and threatened him to cut his head off. A protocol of Administrative Offense under the Article on non-compliance (# 173) with a lawful demand of police was drawn up against him at the police station and he was transferred to the Batumi City Court. On the same day, the Batumi City Court considered the case of the offense without participation of a lawyer, finding the detainee guilty and imposing fine of 1,000 GEL on him. The police officers also fined him with 3,000 GEL for violating the state of emergency.

GYLA emphasizes, that the state of emergency and the imposed restrictions cannot justify the inhuman and degrading treatment by the policemen and leaving a person without the right of defence.

Torture, inhuman or degrading treatment is prohibited under Article 3 of the European Convention on Human Rights. The absolute ban on ill-treatment is so fundamental that it has no restrictions or any exceptions. Article 15 of the Convention which regulates restriction of the rights in the time of emergency, explicitly establishes, that derogation from Article 3 of the Convention is inadmissible at any time. Correspondingly, even in a state of emergency, the prohibition of torture imposes negative liability on representatives of law enforcement body to refrain from committing ill-treatment and on the other hand, within positive liability, obliges the state to conduct an efficient investigation.

In addition, in coordination with the Government of Georgia, the rules for the smooth movement of a lawyer have been defined, in order to perform professional activities. In particular, according to the decree #204 of the Government of Georgia, any economic activity, except for ... work of attorneys at law, shall be suspended for the period of emergency.” According to the same decree, restriction of movement does not apply to the persons/their vehicles on the list agreed with the Operating Headquarter, movement of which is critically necessary to perform job duties during the state of emergency.

Accordingly, in case of arrest of a person under the rules of administrative offenses during the state of emergency from 21:00 to 06:00 o'clock, if the detainee needs the

assistance of a lawyer, it is inadmissible to restrict her/his right to have an attorney on the grounds of curfew.

Considering all of the above, GYLA calls upon:

The State Inspector's Service:

-To conduct an effective, objective and unbiased investigation in a timely manner in order to identify signs of the alleged offence in the actions of the law enforcement officers and to impose proper measures of liability upon them.

The Minister of Internal Affairs:

-To make a clear statement on the mentioned fact and to call on the persons employed in the structure of the Ministry of Internal Affairs to steadily protect the rights recognized by the Constitution of Georgia and international treaties while performing their job duties;

-To give clear instructions to the persons employed in the structure of the Ministry not to act formally while ensuring maintenance of the state of emergency and to take into account individual circumstances, which may exclude the imposition of an administrative penalty on a person.

-To implement preventive measures in order not to restrict the right of the detained persons to have an attorney.

Photo source: Batumelebi