



GYLA's statement regarding the case against Sandro Sulaberidze and the protest of February 12, 2023

It became known to the public that the participant of the exhibition "Self-Portrait with a Mirror" opened on February 4, 2023 in the National Gallery, Sandro Sulaberidze, removed his own work and in its place wrote the phrase - "Art is alive and independent!" on the wall. According to the publicly disseminated information, the Ministry of Internal Affairs has launched an investigation into the incident on the basis of Article 177, Part 2, Sub-Clause "A" of the Criminal Code, which refers to theft that caused significant damage.

The Georgian Young Lawyers Association (GYLA) believes that the publicly disseminated information does not contain the signs of a possible crime provided by the Article 177, Part 2, Sub-paragraph "a" of the Criminal Code. Theft refers to the covertly possession of someone else's movable property for the purpose of its unlawful appropriation, which did not happen in this case. Therefore, initiating an investigation with the qualifications indicated above is also wrong. In addition, it should be emphasized that the scope of the state's margin of appreciation in cases against freedom of expression is narrow when applying the criminal legal regime. The

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European Court of Human Rights establishes in a number of cases that the sanction directed against the freedom of expression, in its essence, should not be equal to censorship and should not have a deteriorating effect on the possibility of expressing a critical opinion.

GYLA believes that the action of Sandro Sulaberidze does not contain criminal elements, and in this regard, the investigation against him significantly damages the guarantees of the freedom of expression in the state. GYLA believes that this type of investigation is a mechanism of pressure on art representatives, the purpose of which is a kind of instruction/warning for other persons to refrain from expressing their positions on certain issues.

It is noteworthy, that after the appointment of Tea Tsulukiani as the Minister of Culture, Sports and Youth, reorganization and large-scale changes began in the subordinate institutions of the Ministry. As a result, many employees have been released from their positions at this time. GYLA actively works on the current labor disputes in the field of culture, which are the result of the policies implemented by the new minister.[\[1\]](#) In the this regard, it is also important to mention recommendation of the Public Defender of October 26, 2022 regarding the establishment of direct discrimination based on different opinions, on the basis of which the agency was instructed to eliminate discriminatory treatment. This recommendation was ignored and was left completely unanswered.[\[2\]](#)

Also, it should be noted that on February 12, 2023, in connection with the case of Sandro Sulaberidze, on Rustaveli Avenue, in front of the National Gallery, representatives of the arts and various fields held a protest rally with the message "Art is alive and free". As it is clear from publicly available sources, civil activist Nata Feradze was confronted by law enforcement officers during the protest, as a result of which she received physical injuries. According to her statement, the law enforcers confronted her because of the paints that were in her plastic bag and she did not use them.[\[3\]](#)

Freedom of peaceful assembly, as a means of spreading opinion, is one of the most important foundations of democratic society and is guaranteed both by the Constitution of Georgia[\[4\]](#) and international sources.[\[5\]](#) Assemblies are part of a healthy political and public process that promotes the discussion of issues important

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to society, the process of raising awareness, change or reform, and is one of the most powerful means of influencing the government.[6] The state has no right to interfere with the freedom of assembly during a peaceful demonstration. Any act of violence is illegal and violates fundamental principles of human rights.[7] The information spread about the incident of Nata Feradze allows us to think that there was an illegitimate interference in the freedom of assembly.

GYLA calls on state agencies to stop putting pressure on art representatives and stop interferences in their activities, as well as to refrain from unjustified interference in the freedom of assembly, while simultaneously, carefully studying such facts and reacting to them in a timely manner.

[1] "After the appointment of Tsulukiani, the interests of those released from the National Museum will be protected by the Social Justice Center and Gyla", the official website of the Young Lawyers Association of Georgia. 22.11.2021 Available: <http://bit.ly/40PGtWI> Updated: 12.02.23

[2] "The public defender established the fact of discriminatory treatment towards Ekaterine Kiknadze, Dinara Vachnadze, Nino Khundadze and Davit Nioradze" official website of the Young Lawyers Association of Georgia. 27.10.2022. Available at: <http://bit.ly/3YJb72b> Updated on 13.02.2023.

[3] See: "There was an incident at the ongoing rally near the National Gallery", Radio Liberty. 12.02.23 Available: <http://bit.ly/3HSs03H> Updated 13.02.2023

[4] Article 21 of the Constitution of Georgia. Available at: <http://bit.ly/3IA3EnB> Updated on 13.02.2023

[5] International Covenant on Civil and Political Rights, Article 21 Available at: <http://bit.ly/3XpZ74G> Updated 02/13/2023; European Convention of Human Rights, Article 11, available at: <http://bit.ly/3XtpKW6> Updated on 13.02.2023.

[6] Decision No. 2/482,483,487,502 of the Constitutional Court of Georgia of April 18, 2011, II, par. 25

[7] OSCE/Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Freedom

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of Assembly Monitoring Guide, 2011, p. 7, available at: <https://bit.ly/3bQA9EV> updated on 13.02.2023.