

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Gigi Ugulava's Statement Must Be Reacted To

As publicly known, the Mayor of Tbilisi Gigi Ugulava made a statement on 21 December 2013 before a court hearing that the judge trying the case is under duress of certain persons including the current and former employees of the Interior Ministry's General Inspection. He has named concrete individuals who, as he alleges, are exercising duress on the judge. We believe this statement requires timely and adequate reaction from the relevant entities.

Over years, we have witnessed number of attempts of law-enforcement agencies to

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pressure the judicial system, thus impacting the degree of justice and trends of the system's development. Certain improvements are apparent in this respect in the aftermath of parliamentary elections, but it is clear that the situation is rather fragile and unstable. In these conditions, any attempt of interfering in judicial activities is extremely dangerous. For this very reason, it is crucially important that all potential facts of infringement upon judicial independence are timely and duly probed into.

In this particular case, we consider the Chairman of the Tbilisi City Court must immediately exercise powers granted to him by law and start inquiring into facts of alleged improper communication with the judge. Further, it is central that the High Council of Justice, as a guarantor of judge's independence, ensures that the Chairman of the Court carries out his above-mentioned obligation in a timely and due manner. Should the elements of crime prescribed by the Criminal Code be identified during the inquiry process, the case must be transferred to investigative authorities without delay.

It is vital for general public to have a timely and justified response on whether the alleged facts in the statement of the Tbilisi Mayor are true. In addition, should such facts be proved, relevant measures of liability must be applied against respective individuals.

At the same time, we would like to urge representatives of all political parties to refrain from making political statements that may indirectly influence the judge's decision. Releasing false and inaccurate statements will clearly have a negative impact on the course of judicial proceedings.

We would like to express our position in respect of another issue as well: it is also known that the Prosecutor's Office was seeking a pre-trial detention for Gigi Ugulava as a preventive measure. A court hearing was scheduled on December 21, at 18:00. According to the released information, prior to the hearing the Prosecutor's Office has submitted another motion in court requesting Gigi Ugulava's dismissal from office (we do not have precise information on whether dismissal from office or suspension of official duties was sought). The judge has examined the motion on a pre-trial detention at an oral hearing with participation of the prosecution and defense and rejected it. The defendant was released on bail in the amount of 50,000 GEL.

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Following the announcement of this ruling, the same judge has examined without the parties' involvement the motion of the Prosecutor's Office on dismissal of Gigi Ugulava from office and satisfied the request.

Pursuant to the Criminal Procedure Code, the court is authorized to examine similar motions without participation of the parties. Yet, taking into account that there is a high public interest towards this case and the office of directly elected Mayor of Tbilisi is concerned, and that several hours earlier to adopting this ruling the same judge had ruled on another motion of the Prosecutor's Office with involvement of the parties, it would be best to examine the motion on dismissal from office also with participation of the parties and to provide the defense an opportunity to advance its arguments. The Criminal Procedure Code is based on the constitutional principle of equality and adversariality of the parties, and it is crucial that each judge is guided by this principle while trying any case.

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Georgian Democratic Initiative (GDI)
Human Rights Education and Monitoring Center (EMC)
Georgian Bar Association
Article 42 of the Constitution