

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## GYLA Statement on Giorgi Ugulava Case

Investigation of a crime, revealing offenders and imposing legal responsibility represents primary obligation of the law-enforcement bodies. On the other hand, this obligation must be implemented in accordance with the rules prescribed by the law; the law-enforcement body must prove the law-compliance of the investigative actions and may only limit the rights of an any person in case of existence of the factual and legal grounds.

Based on the analysis and examination of the widespread information, GYLA considers that there are a number of circumstances in case of Giorgi Ugulava, which indicate

that the actions of the law-enforcement bodies lacked proper justification and credibility; those actions did not comply with and contradicted the requirements prescribed under the legislation of Georgia, specifically:

**1.** As it is known, the court rejected the motion of the prosecution on the so-called City Park case and did not impose the bail as the preventive measure against the defendant G. Ugulava. The motion of the prosecution on confiscation of the ID card and passport was not upheld as well. Therefore, in the case of [ ] Park A there was no such order, enacted by the court, which would have restricted G. Ugulava from crossing the border.

**2.** It is notable that the representatives of the law-enforcement bodies and the government have stated, that the defendant G. Ugulava was warned by the investigation services that he should not have had crossed the border and that Ugulava was not going to abide by this request, which justified his detention. In this regard we would like to note the following:

Indeed, the case materials include the [ ] on Warning the Defendant A dated June 30, which says that G. Ugulava is warned that [ ] should not cross the state border of Georgia and should not leave the territory of the country A. However, this document may not be considered as the legal basis for restricting the crossing of the border, because: A) none of the provisions of the Procedural Criminal Code (PCC) grant the investigator/prosecutor an authority to limit a right of a person to travel (on its sole decision, without the court [ ] relevant order). B) the above protocol has been acceptable until the court had examined the motion of the prosecution on confiscation of the ID card and passport of G. Ugulava in the [ ] Park A case. Since the court has rejected the motion of the prosecution, it is clear, that the warning protocol filed by the investigator would not have had the deterrent power even if it have had factual and legal grounds at the moment of detention. C) it is notable that the [ ] protocol” does not indicate any provision of any law, based on which it was issued.

**3.** As it is known, along with the case of the so-called [ ] Park A the investigative services of the Ministry of Finance was examining other case as well, in which G. Ugulava had the status of a witness. As it is revealed from the communication sent by the investigative body, G. Ugulava should have arrived as a witness at 10:00 in 2014. The correspondence is written on July 2 (which was delivered to G. Ugulava at 22:10

on the same day), which means that the prosecution did not have enough evidences for bringing charges against the defendant at that time. Otherwise, (if the prosecution had evidences), G. Ugulava should not have been summoned as a witness, he should have been notified that he was summoned to be informed of the charges brought against him (Article 169 of the Procedural Criminal Code).

In addition, by the moment of the detention (July 3, approximately 6 am) the term, given by the investigative services to G. Ugulava for arriving voluntarily as a witness (on July 4, 10:00) was not expired. Since he was summoned under the status of a defendant (accused), it means, that within the period from sending the correspondence and until detention of G. Ugulava, the investigative service will only be able to prove the legality of its actions, if it is able to provide credible argumentation that in the mentioned eight-hour interval such important and new circumstances were revealed, which, on the one hand, caused changing the witness status of G. Ugulava to the status of a defendant, and on the one hand, it became urgently important to detain him. The statements of the investigative services have not indicated any of such important and new circumstances by now.

**4.** Even if the law-enforcement body provides argumentation that the person, summoned as a witness on a particular case allegedly plans to escape from the investigation, according to the Procedural Criminal Code of Georgia, this will not become the basis for changing the status of a summoned person and for detaining him. According to the Article 171 of the Procedural Criminal Code of Georgia, the detention of a person requires  allegation that the person has committed a crime  Therefore, again, the following question arises: if on July 2, while summoning G. Ugulava as a witness, the investigation did not have the basis for bringing charges against him, what were the additional circumstances, revealed within a few hours, which created justified allegation, that G. Ugulava has committed a crime? As it was mentioned, such a justification was not provided by the investigative services.

**5.** According to the widespread information, within the few hours from detaining G. Ugulava, the lawyers were not given a possibility to meet him. We call upon the law-enforcement bodies to properly examine this issue and in case if the violation is confirmed, to impose the law-prescribed responsibility upon those persons, who hindered the advocates from performing their professional duties. It should also be mentioned that unfortunately, the case of G. Ugulava is not an only exception, in

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which such a problem has occurred. The Article 18 of the Constitution of Georgia requires that [ ] the moment of detention or imprisonment, a person has a right to request legal assistance, which should be provided A [ ] It is the obligation of the law-enforcement bodies to ensure safeguarding of this right in every particular case, without obstacles.

**6.** According to the widespread information, during the detention the defendant was not informed of his rights, which also represents the violation of the Article 18 of the constitution of Georgia.

GYLA calls upon the law-enforcement bodies to firmly protect the requirements of the Constitution and the legislation of Georgia while conducting any of the investigative activities; to provide credible justification to their actions and especially to those activities, which result in limitation of the rights, guaranteed under the constitution.