

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA's Statement on Zugdidi Incident

Georgian Young Lawyers' Association voices its position in terms of Zugdidi incident.

[According to the released information](#), Kakha Gulordava abused physically Goga Anchabadze - patrol police officer. He cut off his ear, undressed him and left him in the vicinity of Zugdidi College. Mass media provides that the motive was Anchabadze's attempt to rape Gulordava's pregnant wife. Anchabadze tuned to be Gulordavas's childhood friend and best man.

Goga Anchabadze was placed in Zugdidi republican hospital, was operated and in critical condition was moved to Kutaisi hospital. As reported, health condition of Gulordavan's pregnant wife aggravated after the incident and she was also placed in

the hospital. The same evening of the incident, Gulordava appeared before the police himself and confessed his guilt. Investigation was launched as per Article 118 of the Penal Code (light health damage).

We would like to make some explanations on the fact: we wish to highlight from the outset that the fact of violence on any individual, including police officer, is prohibited and punished by law. Nobody is entitled to personal reprisal or committing of other offence in response, however severe the perpetrator's offence may be.

Moreover, state is obliged to curb such acts, which, in the case concerned, should be revealed in initiation of criminal persecution against Kakha Gulordava. Furthermore, state's adequate and fair response also implies immediate, comprehensive and impartial investigation of police officer Anchabadze's conducts and his punishment according to law, if the offence is confirmed. In addition, it is necessary to suspend Goga Anchabadze's official duties in investigation process.

In the process of investigating and examining the case in court, number of circumstances should be taken into account. In particular, according to released information, Gulordava's conduct was the reaction on Anchabadze's total ignorance of established public moral norms along with criminal law principles. Moreover, Gulordava appeared before the police himself and confessed committed offence.

As it is known, investigation was launched as per Article 118 of the Penal Code. Law enforcement officials should determine if there is composition of offence envisaged by any other Article of the Penal Code. Namely, Article 121 of the Criminal Code provides that offence is "intentional serious or less serious damage of health under sudden mental anxiety that was caused by the victim's illegal violence against the criminal or his/her close relative..." Article 121 envisages more lenient sanction compared to Article 118 of the Criminal Code.

Moreover, in it would be legally incorrect to order pre-trial detention as preventive measure in the case, since according to the Criminal Procedure Code "imprisonment, as preventive measure should be ordered only if it is the only measure to avoid

a) Flee of the detained or interference in administration of justice;

- b)Obstruction in obtaining evidences;
- c)Committing of the new offence by the detained”

If we take into account circumstances of the case, especially that Gulordava appeared before the police voluntarily and confessed committed offence, it becomes evident that application of imprisonment as preventive measure would come in conflict with principles of the law.

Gulordava, like his wife, is in need of psychological rehabilitation and imprisonment would only be an inhibiting factor. It should also be considered that offences provided for in Articles 118 and 121 pertain to category of misdemeanor and envisage more lenient penalties than restriction of freedom.