



#GYLA



In the evening of May 12, special operation was carried out in several nightclubs in Tbilisi. The scale and form of the operation raised suspicions that it was a show of force operation by the Ministry of Internal Affairs. Mass arrests and violations of the right to a peaceful assembly by the police in response to a rally organized spontaneously to protest actions of the law-enforcement convinced us once more that **the legislation on administrative offences of Georgia remains to be the uncontrollable source for human rights violations.**

In the foreword of GYLA Magazine #4, I will touch upon our activities related to the May 12 developments in Tbilisi.

In consideration of the scale and importance of measures taken, GYLA and EMC started jointly examining the developments of May 12 in a detailed manner. We will soon conclude the legal evaluation and present its findings to stakeholders in late July. At the same time, GYLA continues to defend in court interests of individuals placed under administrative arrest at the night of May 12. The Ministry of Internal Affairs argues that they perpetrated petty hooliganism and/or disobeyed lawful orders of the police. Unfortunately, past experience in similar cases indicates that court views statements and testimonies of police officers as sufficient evidence to confirm an act of violation. GYLA is trying to change this practice, which would be impossible without a comprehensive reform of the unconstitutional legislation on administrative offences.

Regarding other important issues that GYLA worked on over the past three months, please, see following pages of the Magazine. You can also follow our everyday work here: <https://gyla.ge/en>.

Nona Kurdovanidze
Deputy Chairperson of GYLA

What does the monitoring of the High Council of Justice indicate?

On June 28, GYLA and Transparency International – Georgia held presentation of monitoring of the High Council of Justice (HCoJ) performance in 2017.

The monitoring reveals that **the HCoJ failed to ensure adequate implementation of the "third wave" of the reform of the judicial system in practice** – appointment of judges was characterized by flaws that the reform aimed to address in the first place. The problem of clear intolerance of pluralism of opinions and critical opinion remains a problem in the new composition of the Council.

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The system of accountability of judges remains ineffective, which poses a threat to independence of a judge. Legislation is characterized by flaws that provide the Council with a broad discretion for making ill-founded and subjective decisions. In particular:

- **Renewal of the 2017 composition of the Council has not led to any substantial changes in the Council's performance.** It is the priority of newly elected judge members to carry on the vision of the previous composition, while majority of non-judge members failed to demonstrate their own visions or a principled approach;
- **Persecution of different opinions and demonstration of unhealthy effects of the group of influential judges continued within the Council.** Often public had to hear unethical accusations and aggressive statements during meetings of the Council, which on the most part had nothing to do with argumentative and subject-oriented discussions about the judicial system in general;
- **Access to information that public finds important is restricted.** Closing of interviews upon request of unprecedentedly large number of judicial candidates (4 candidates in 2014-2016 and 45 in 2017) is especially problematic;
- During the reporting period, **141 judges were appointed based on ill-founded decisions that lacked transparency, including 67 judges appointed for lifetime:** evaluation of candidates does not cite any relevant sources and evidence;
- **Court/board/chamber chairpersons are appointed** by the Council by disregarding adequate criteria and procedures, mostly **in a non-competitive environment**;
- **The extremely low rate of imposition of disciplinary liability on judges indicates ineffectiveness of the mechanism of accountability.** In addition, high rate of termination of disciplinary cases, under conditions that lack transparency, creates suspicions about impartiality of these decisions;

■ [Monitoring Report of The High Council of Justice No. #6](#)

!! Unfair Code of Administrative Offences !!

Current Code of Administrative Offences of Georgia dated 1984 violates fundamental human rights on a daily basis. It is unconstitutional and does not comply with Georgia's international obligations.

The nature of the legislation falls short of the requirements of a fair trial and places illegitimate restrictions on fundamental rights, including right to peaceful assembly and freedom of expression. The Code of Administrative Offences prescribes severe sanctions for certain offences, including administrative imprisonment, while procedural guarantees provided in the Code are much less than those of a person charged with a criminal offence. It does not deal with such matters as relying on the standard of proof beyond reasonable doubt; *safeguarding presumption of innocence, right to effective legal representation, etc.* Nearly 30 000 cases are handled per year in Georgia based on the Code!

GYLA is actively advocating the reform of the Code. It has filed **five lawsuits** in the Constitutional Court of Georgia about different provisions of the Code. Further, within the Coalition for Independent and Transparent Judiciary, GYLA **applied to the UN Special Rapporteur Clément Nyaletsossi** with a request to study the practice of limiting freedom of peaceful assembly and freedom of expression in Georgia using the Code of Administrative Offences.

Meetings in the International Criminal Court

On 14-18 May 2018, GYLA representatives participated in annual strategic roundtable meetings between the International Criminal Court (ICC) and non-governmental organizations in Hague.



Photo: @ICC

The roundtable meetings concerned cooperation between non-governmental sector and the ICC and challenges that the International Criminal Court faces during investigations that it carries out in different countries.

Alongside GYLA, representatives of four other Georgian NGOs also attended the meetings. **The Georgian side discussed the International Criminal Court's current investigation concerning the August 2008 war and related challenges.** Especially, they underlined the need to strengthen the local office of the International Criminal Court in Georgia and conduct active educational and awareness campaigns, including for individuals affected by the August 2008 war in order to raise their awareness about their rights during the International Criminal Court proceedings. **Georgian participants also underlined the social and economic hardships faced by persons affected by the war and urged the Trust Fund for Victims to implement projects to assist and support victims of war in Georgia.**

Participation of Georgian NGOs in the roundtable meetings was financially supported by the Open Society – Georgia Foundation.

GYLA submitted amicus curiae brief to the European Court

On 22 May 2018, the Georgian Young Lawyers' Association submitted an amicus curiae brief to the European Court of Human Rights concerning the case of „Rustavi 2 and others v Georgia“.



The submissions provide an overview of decisions of the Supreme Court of Georgia in relation to Articles 85 and 89 of the Civil Code of Georgia (limitation period for rescission of transaction made by duress), as well as international standards and national legislation on assignment of cases. As per European Court's decision, submissions of GYLA did not concern factual circumstances of the case and the merit of the dispute.

The request of the Georgian Young Lawyers' Association to participate as amicus curiae in Rustavi 2 case was granted by the European Court of Human Rights on 4 April 2018.

Political rights of persons with disabilities

How are political and election rights of persons with disabilities realized in Georgia? The Georgian Young Lawyers' Association and its sub-grantee Local Democracy Agency held a presentation of the research about this issue on 15 May in Kutaisi.



The research “*Strengthening the capacity of persons with disabilities in elections and politics*” supported by USAID has three stages. It is implemented by GYLA’s sub-grantee Local Democracy Agency. The organization published results of the phase 1 of the research last year. Based on recommendations prepared within phase 2 of the research, for strengthening the capacity of People with disabilities in elections and politics in Georgia, the following is important:

- Adapted infrastructure and environment;
- Adapted transportation for PWDs;
- Full adaptation of polling stations;
- Raising awareness of PWDs about their election rights;
- Promoting participation of PWDs in political and public relations by the state;
- The legislation should provide the list of elements of those rights that may not be subjected to limitation or provision of support for their enjoyment;
- It is important that court decisions finding that an individual needs support to exercise his/her legal capacity are adequately substantiated.

Results of part 3 of the research will be published by the end of the year.

Successfully litigated cases of GYLA

Every year, GYLA represents hundreds of individuals in court, including in the Constitutional Court, the European Court of Human Rights and other state agencies, to ensure that they receive remedy for violation of their rights.

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Over the past months, as a result of GYLA’s assistance:

- The Ministry of Labor, Health and Social Affairs was ordered to ensure that, for the purpose of registration in the single database of socially vulnerable families, declaration about family’s social status should be available in Braille or through any other technical means; It was also ordered to ensure that information about social/health programs for People with disabilities should be available in Braille and/or other alternative modes of communication;
- The Ministry of Labor, Health and Social Affairs of Georgia was ordered to ensure that the state’s social, economic or healthcare programs should be available for individuals with Georgian residency permit, on equal basis with citizens of Georgia;
- The Ministry of Culture and Sports of Georgia was ordered to compensate a person with disability. The plaintiff sustained a serious health injury when he was visiting a museum.

New project

Protection of cultural heritage in Tbilisi

On June 6, the Georgian Young Lawyers' Association and Tiflis Hamkari organized a kick-off event of their joint project "Protection of cultural heritage in Tbilisi."

The primary purpose of the project is to improve protection and management of cultural heritage in Tbilisi and to increase transparency and accountability of work of the LEPL Tbilisi Development Foundation.



In addition, the project will strengthen the instruments for protection of cultural heritage and promote implementation of rehabilitation process using the right methodology in the process of governance of Tbilisi.

To achieve these goals the Georgian Young Lawyers' Association and Tiflis Hamkari will monitor and evaluate work of the LEPL Tbilisi Development Foundation. Based on the monitoring results, the organizations will prepare and subsequently advocate concrete recommendations before relevant decision-makers. To mobilize public interest and support, the Georgian Young Lawyers' Association and Tiflis Hamkari will also conduct intensive information campaigns.

The project "Protection of cultural heritage in Tbilisi" is implemented within the East-West Management Institute project EWMI ACCESS funded by the U.S. Agency for International Development (USAID).

Strengthening Parliamentary Oversight

In June 2018, through a new project the Georgian Young Lawyers' Association started strengthening parliamentary oversight on security sector – in the area of secret procurement.



The purpose of the project is to prepare research-based policy documents and improve and strengthen mechanisms of citizen/democratic oversight on security sector – in the area of secret procurement through advocacy campaign in parliamentary and security sector.

Anticipated outcome of the project is reduction of corruption risks to the minimum in secret public procurement process.

The project is supported by the Embassy of the Netherlands in Georgia and it will last until October 2019.

The Georgian Young Lawyers' Association – GYLA was founded in 1994 and today it has over 800 members, 120 employees, and dozens of international and local donor and partner organizations. GYLA has offices nationwide: in Batumi, Gori, Dusheti, Zugdidi, Tbilisi, Telavi, Ozurgeti, Rustavi and Kutaisi.

Since the day it was founded in 1994, GYLA has protected rights of over 1 million people!

Today GYLA is actively working in the areas of human rights protection, strategic litigation, good governance, legal education and awareness raising.

In 2017, GYLA rendered free legal assistance to 35 334 individuals, provided 3 659 field consultations nationwide, successfully litigated 121 cases including 6 cases before the Constitutional Court and 4 before the European Court of Human Rights.

A survey conducted with support of the European Union (EU) and the UN Development Program (UNDP) indicates that GYLA is a leader in Georgia in terms of the number of people that apply to it for free legal aid and recognition. 66% of respondents have heard about GYLA's free legal aid center, while 62% of respondents have applied to GYLA for assistance.



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