

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA considers impermissible interference of the cleaning service of the city hall in the rally held in Kutaisi

GYLA considers that conduct of cleaning service of Kutaisi City Hall, in particular, application of the water cannon trucks against the youth protest, was unreasonable interference in freedom of assembly and expression.

On May 2, activists of “Georgian Dream” Kutaisi office have gathered in the Center of the city to mark the day of the city “Kutaisoba”. With lighted candles they have written on the pavement the following words: “Happy Day of Kutaisi.” The video records of the TV Company “Maestro” reveal that in the process of the event, a truck appeared spraying water cannon at the protesters. The video recorded how a person dressed in uniform takes aim at participants of the rally with water cannon.

The protest was not held on the traffic road and organizers of the event were not required to submit preliminary notice to Kutaisi City Hall. Therefore, the assembly was legal. GYLA considers that conduct of the cleaning service of Kutaisi City Hall under the excuse to protect sanitary-hygienic or fire preventive norms in the city, is not convincing argument. It is unclear what risk shall be created to city sanitary or fire security norms with some candles placed in plastic glasses.

Even if the conduct of Kutaisi City Hall was motivated by protecting sanitary-hygienic conditions and fire prevention security measures, in the instant case the mentioned legitimate aim could not have outweighed exercise of the right to freedom of assembly and manifestation. Any event held at the place of public assembly implies certain disturbance to everyday life (paragraph 43 of the ECHR judgment on the case Nurettin Aldemir and others v. Turkey), including placement of plastic objects in public places. Unless participants of the protest use force, the government should be tolerant towards the forms by which participants of the protest express their opinions. (ECHR judgment on the Balchiki and others v. Turkey, paragraph 56) Peaceful expression of opinion with candles at the public place is the substantive part of freedom of assembly and expression and the government bears the negative obligation not to inhibit exercise of the mentioned right.

Conduct of Kutaisi City Hall, to clean up the city with plastic remainders, would have been justified only after the end of the assembly, unless the members of the assembly did not take the plastic objects themselves. GYLA is surprised with impatience of Kutaisi City Hall which started cleaning activities by using water cannons.

GYLA considers that restriction of the right to assembly was illegal and unjustified interference in exercise of the right to expression. GYLA will provide legal aid to all participants of the assembly.