



GYLA Applies to European Court on behalf of Demonstrators and Journalists Affected by June 20 events

On 7th April 2021, GYLA, together with its partner organization - the European Human Rights Advocacy Centre (EHRAC), filed 2 new applications with the European Court of Human Rights. Applications concern the excessive use of force by the state and the failure to conduct an effective investigation into the actions taken towards 22 persons, including 10 persons exercising the right to peaceful assembly, 11 members of the media and 1 person accidentally found in the epicentre of events during the dispersal of the anti-occupation rally on June 20-21, 2019.

On June 20-21, 2019, the Ministry of Internal Affairs of Georgia made a decision to disperse the rally, which turned into a large-scale violation of the protesters' rights.

The applicants are substantiating in the submitted applications that there is a violation of Article 3 (prohibition of torture), Article 10 (freedom of expression - only in the case of media representatives), Article 11 (freedom of assembly and association - only in the case of demonstrators), and Article 13 (right to an effective remedy).

Illegality and disproportion of the force used: In parallel with the tear gas, the Ministry of Internal Affairs started firing rubber bullets at the protesters illegally, including without prior notice. The use of rubber bullets took place under wide discretion conditions, without prior consent and instruction, which indicates another basis for this action's illegality. Rubber bullets were used against those persons from whom there was no threat, including clearly identifiable media members. It is also confirmed that law enforcement officials fired rubber bullets at close range and in the direction of vital organs. As a result, among them, four persons under GYLA's protection lost one eye/ their eyesight in one eye. In essence, these actions are tantamount to ill-treatment and indicate a lack of proper instruction and training for the Special Forces. At the same time, in the submitted application, GYLA argues that on June 20-21, the Ministry of Internal Affairs failed to manage the tense situation properly and did not use the resources of communication, negotiation and dialogue to ensure de-escalation.

Ill-treatment during the detention and the following period: On June 20-21, the Ministry of Internal Affairs used the practice of administratively detaining protesters en masse. Persons under the effective control of law enforcement during/after the arrest were subjected to ill-treatment due to subsequent physical and verbal abuse by law enforcement during the detention and aftermath.

Interference with journalistic activities: The use of active special means and physical or verbal abuse by law enforcement officials resulted in serious violations of the rights of media representatives, including freedom of expression, protection from ill-treatment, as well as interference in journalists professional activities.

Ineffectiveness of the Investigation: On June 22, 2019, the Office of the Prosecutor General of Georgia has launched an investigation on the fact of the alleged abuse of office by certain officials of the Ministry of Internal Affairs under Article 333 (3) (b) of the Criminal Code of Georgia (CC) using violence or a weapon (exceeding official powers by a public political official using violence or a weapon shall be punishable by imprisonment for a term of five to eight years, with the deprivation of

the right to hold an office or to carry out activities for a term of up to three years). It should be noted that in November 2019, GYLA published a report "Beyond the Lost Eye", which assesses the events of June 20-21. The report was accompanied by recommendations, including one of the recommendations was to conduct an effective investigation into the acts committed; however, even though more than 21 months have passed since the beginning of the investigation, the investigation process is flawed and incomplete, and, as a result, does not meet the standard of effective investigation. In particular:

1. ***Failure to Grant the Victim Status/ Ineffective Involvement of Victims:***

To date, 20 out of 22 persons under GYLA protection are not acknowledged as victims, even though the harm inflicted to these individuals resulting from the crime is confirmed based on video materials, medical documents, testimonies of witnesses available to the investigating authorities. Although two persons under the protection of GYLA, Maia (Mako) Gomuri and Giorgi Sulashvili, have victim status, the Prosecutor General's Office does not give them access to the full case file materials and only provides access to those materials, which *in the opinion of the investigating authority* is relevant to the applicants' case. This deprives the applicants of the opportunity to enjoy their rights guaranteed by the Code of Procedure fully.

2. ***Delay in obtaining forensic medical examination conclusions:*** The Office of the General Prosecutor scheduled a forensic medical examination at the Samkharauli Bureau 10 days after the investigation's launch, on July 2, 2019, and only based on medical documentation without a personal examination. To date, the investigative body refuses to recognize the persons under GYLA's protection as victims due to the lack of medical examination findings. It should be emphasized that more than 21 months have passed since the appointment of the expert examination, and the prosecutor's office has not received the answers to the expert opinion so far, which significantly delays the process.

3. ***Failure to carry out necessary investigative actions:*** The Prosecutor General's Office did not conduct reasonable investigative actions necessary for an effective investigation, including those requested by GYLA, which were necessary to establish the circumstances of the applicants' injuries and the criminal liability of the perpetrators.

4. ***Incorrect qualification of crimes committed:*** It should be emphasized that the correct qualification of the facts of ill-treatment by investigative bodies has

remained a significant challenge for years. The applicants' cases are one example of this. Although the factual circumstances of the case clearly show that inhumane and/or degrading treatment was committed in relation to the specific episodes, which, in its essence, is more serious than the abuse of office under Article 333 of the Criminal Code, the investigation is still under Article 333. This raises the suspicion that this may serve to alleviate the responsibility of law enforcement agencies by the investigating authorities. However, even though the media representatives under GYLA's protection were interfered from carrying out their journalistic activities by law enforcement officials during the rally dispersal, there is no investigation under Article 154 of the Criminal Code (unlawful interference with journalists' professional activities).

5. **Impunity for the perpetrators:** According to the ombudsman's interim report on the June 20-21 events, there is a basis for launching a prosecution against the Special Tasks Department's former director of the Ministry of Internal Affairs; however, the prosecution has not yet begun.

Problems with Legislative Regulation of Active Special Means: Submitted applications argue the legal framework governing the use of active special means (including rubber bullets), which does not specify in specific cases with strict precision for the addressees of the norm in what circumstances, when and to what extent it can be used.

The applications filed by GYLA highlight the systemic problems that occur during the dispersal of rallies by the state through the use of force. As a result, it becomes clear that the state still does not have an effective, human rights-oriented management policy for demonstrations.