



GYLA has a reasonable doubt that the video of defendant Mamuka Ivaniadze was secretly recorded by the prosecutor in violation of law

On July 22, 2013, during a briefing held at the office of the chief prosecutor of Georgia about abuse of funds allocated for purchase of tractors in frames of the program in support of small farmers, it was reported that prosecution did not find any evidence of alleged pressure and threats against the defendant, Mamuka Ivaniadze. It was also stated that M.Ivaniadze willingly testified before the prosecutor while his attorney was not present. The office of the prosecutor released a secret video recording as evidence to corroborate the foregoing statement.

At the press conference held the following day at GYLA, lawfulness of the secret video recording was questioned and the following was stated: "First of all, even a layperson can realize that it has been edited. Further, according to M.Ivaniadze during questioning Prosecutor Giorgi Davitashvili was telling him what to say in his testimony, which M.Ivaniadze simply repeated. This was only a portion of the pressure he was subjected to. He was visited by the prosecutor 4-5 times, including two times during night-time. The fact is that the video was secretly recorded at the penitentiary facility. Clearly, the prosecutor himself was hiding the camera in his clothes. The question is, whether the office of the prosecutor had the right to secretly record a video without court warrant under the Criminal Procedure Code. Planning and/or realizing recording of a video footage in secret without court warrant suggests crime."

The following day, on July 24, the office of the prosecutor released a statement saying that “the video footage was recorded and submitted as criminal evidence in full abidance by Georgian laws and these actions are in full compliance with applicable procedural provisions.”

More than just an eloquent response is needed to address the question of whether the footage was obtained and submitted in evidence in full abidance by Georgian laws. The only way to answer the question is with court’s warrant. Following the July 23 press-conference at GYLA we were hopeful that the office of the prosecutor would make the warrant public but instead, we only received general comments in response. Even though it has raised a suspicion about whether any such warrant actually existed, we refrained from any further inquiries assuming that the warrant was submitted to the defence during exchange of evidence, as envisaged by the Criminal Procedure Code of Georgia.

However, contrary to our assumption and according to the defence, the prosecution did not provide the defence either with the footage or the court warrant that would prove its lawfulness. It further intensified suspicions about whether such warrant existed. During a trial on August 5, lawyer Ioseb Baratashvili asked the prosecutor whether a warrant for the secretly recorded video of M.Ivaniadze released on July 22 press-conference at the office of the prosecutor was submitted to court. The prosecutor responded that he could not recollect what footage was released by the office of the prosecutor on July 22.

In this light, we have a reasonable doubt that the video was recorded without court’s warrant, which suggests violation of the Criminal Code. Further, it needs to be established whether on July 22-24 the office of the prosecutor knew that there was no warrant. If it did, it is peculiar that the video was released anyway and no subsequent investigation into illegal obtaining of footage was launched. If it did not, on what grounds did it make an assumption that the video footage was obtained “in full abidance by the legislation”?

Notably, Georgian laws prohibit carrying of a recording device in penitentiary establishment. Therefore, the investigation should address how the recording device was brought into the prison as well as whether prison officers responsible for searching the prosecutor when he entered the penitentiary establishment acted in

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violation of law.

We urge the office of the chief prosecutor of Georgia to make public the court warrant authorizing secret recording of M.Ivaniadze by Prosecutor Giorgi Davitashvili. If there is no such warrant, we demand launching of immediate subsequent investigation.