

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## **GYLA believes that substitution of plea bargain reached in Vladimer Bedukadze's case is not viable from legal point of view**

In response to the Prime Minister's statement about Vladimer Bedukadze's plea agreement, GYLA would like to state the following: we agree with the Prime Minister saying that relieving a perpetrator of torture completely from criminal liability is unacceptable. Further, we believe that modification of court's verdict in Vladimer Bedukadze's case is not viable from legal point of view.

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GYLA believes that the chief prosecutor of Georgia has violated para.8, Article 218 of the Criminal Procedure Code that prohibits fully relieving a person that committed crimes envisaged by Article 1441 (torture), 1442 (threat of torture) and 1443 (degrading or inhumane treatment) of criminal liability. The stipulations of law were also violated by judges that approved plea bargain without main hearing. Under para.5, Article 213 of the Criminal Procedure Code, the judge should have referred the case back to the prosecutor, as stipulations of Chapter 21 of the Procedure Code had been violated. Notably, the violation may not serve as grounds for repealing the verdict adopted without main hearing.

The verdict could have been repealed within the period of 15 days had Vladimir Bedukadze himself filed a claim and had the plea bargain been reached with deception, coercion, violence, threats or intimidation, had the defendant's right to defense was curtailed or had the court violated applicable procedures in approving the agreement. Notably, the office of the prosecutor has no right to demand annulment of plea bargain based on any of the foregoing grounds. The Criminal Procedure Code envisages a single possibility for the office of the prosecutor to motion for annulment of plea bargain, as prescribed by para.4, Article 215 of the Code. The norm delegates the office of the prosecutor with the right to file a complaint seeking annulment of a plea bargain, provided convict violated any of the terms s/he committed himself/herself to under the agreement. We are unaware of any alleged violation of terms by Bedukidze that may serve as grounds for the office of the prosecutor to file for annulment of the plea agreement.

In addition having a verdict appealed, there is also a possibility of having it re-examined in light of any new evidence. It is not yet clear whether these grounds can be applied to Bedukadze's case, as no new factual or legal evidence and/or alleged procedural violation has been identified post-arrest.

In this light, we believe that PM's request to completely relieve Vladimir Bedukadze of his punishment lacks legal substantiation.

Thus, any modifications in similar decisions may be based only on grounds that are expressly and clearly stipulated by applicable law; otherwise, court should not be able to annul a plea bargain, even if the latter has been adopted in violation of criminal procedure norms. This will serve as an attempt to right a wrong by committing an

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unlawful act, which never yields desirable results.