

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Media Legal Defense Center Reacts on the Developments in the Public Broadcaster of Georgia

On September 6, 2013 the general director of the Public Broadcaster was dismissed from the post on the basis of announced mistrust from the side of Board of Trustees of the public broadcaster. As the documents released on the web-page of the public broadcaster illustrate, two members of the Board Nino Danelia and Natalia Dvali were not at the session and were represented by Levan Gakheladze, ex-member of the Board and Mamuka Pachuashvili member of the Board, on the basis of the official

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power of attorney.

The legislation of Georgia on Broadcasting does not envisage participation at the session of the Board of Trustee and voting by means of a representative. Public Broadcaster is a legal entity of public law. Board of trustees carries out public law authority and accordingly, possesses special legal capacity meaning that it is not authorized to implement activities that are not directly prescribed in the legislation that regulate its activities. None of the normative acts authorize the Board member to take decision by means of his/her representative. It should be noted that Mamuka Pachuashvili signed the adopted decision twice, as a representative and as a board member.

In addition, the Board of Trustees is an elective, collegiate body. Members of the Board are elected by the Parliament upon nomination of the President for their public recognition and trust. It means that members of the Board should exercise their authorities personally. Like the Member of the Parliament is prohibited to transfer its authority to participate in legislative activities to other individual, member of the Board is also obliged to implement his/her authorities personally. Operation on the bases of the power of attorney is characteristic to legal relationships among legal entities and natural persons of private law.

According to Article 321 of the Law on Broadcasting, Board of Trustees, by majority of total votes, is entitled to declare mistrust to the General Director. As far as in Nino Danelia's and Natalia Dvali's case the voting process has been violated, the Board was not authorized to make such decision by seven votes.

It should be noted that it is already the second case of announcing distrust to Giorgi Baratashvili. Initially, the Board declared distrust with gross violation of legislation, on March 4, 2013 and left impression of politically motivated dismissal. On April 29, 2013 the court invalidated the decision of the Board. GYLA represented Giorgi Baratashvili's interests in the case.

We would like to attract your attention to one statement released on the official web-page of the Public Broadcaster. "The pressure was exercised on newly elected chairman of the board Mr. Goguadze by officer of the security agency Mr. Irakli Tsibadze. The day before the Board, Mr. Tsibadze met Mr. Goguadze offering him various favors in return to "becoming friendlier", otherwise he threatened to take

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appropriate measures”.- statement of the Board provides.

Information released by the Board of Trustees requires timely and adequate response from the side of law enforcement agencies. Investigation should determine if the alleged has really taken place and the offender should be brought to justice. Moreover, if the act (if verified contains the signs of offence) was committed by representatives of the Interior Ministry, investigation should be launched by the prosecution as envisaged by Georgian legislation.

Adoption of a decision from the side of the Board of Trustees of the Public Broadcaster (or any other agency), if it is not in line with Georgian legislation and evokes doubts on its political motives is always inadmissible, especially in pre-election period. Further, interference in the activities of the Board of the Public Broadcaster in a given form is absolutely impermissible, notwithstanding the lawfulness of its conduct.