



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

Statement on the Case of Ana Subeliani and Tamaz Akhobadze

The Coalition for an Independent and Transparent Judiciary is responding to the failure of administrative bodies to execute the court decision ordering to reinstate Ana Subeliani and Tamaz Akhobadze in their positions at work. This failure points to the administrative bodies' disrespect of the right to fair trial.

It is well known that Subeliani and Ahobadze were dismissed from the LEPL Crime Prevention Center in January 2014. They claimed that Tea Tsulukiani was responsible for this illegal and unjustified decision, although their **dismissal was officially justified by reorganizational needs**. The dispute went on for almost four years at three court instances, but ended with a positive outcome for Subeliani and Akhobadze. The Center was ordered to reinstate the former employees in their positions and also compensate them for the loss of remuneration from the date of dismissal until the date of reinstatement. ^[1]

The Court held that the employees were dismissed because of the certain officials' biased opinions unrelated to their performance and competences; the reorganization was a superficial excuse, because the positions that existed prior to the organization were not abolished. Furthermore, new positions were introduced and the agency's budget was expanded.

Despite the fact that the court decision was final, the LEPL Crime Prevention Center refused to execute it. The explanation of the refusal was that it had a new employee working in Akhobadze's position since 2017, and Subeliani's position had been abolished. Notably, the Center did not present any evidence confirming these facts during court proceedings, despite the other party's and the court's request. Hence, it was predictable that the execution of the court decision would encounter obstacles.

Later (in four months after an application was submitted to the National Bureau of Enforcement), the employee working in Akhobadze's position at the Center applied to the Tbilisi Court of Appeals with a request to annul the court decision, and the Court upheld this request. Subeliani received an enforcement letter with a note that it was impossible to reinstate her because her position was abolished. Notably, the court decision required the Center to compensate Subeliani for the lost remuneration. This part of the decision also was not executed. We believe that the Bureau's decision in this regard unequivocally contradicts the law, because no justification is provided for the failure to compensate Subeliani.

Due to the fact that the Center did not submit information about the abolishment of Subeliani's position at any of the trial stages, one may assume that the Crime Prevention Center uses various mechanisms to delay the process of enforcement, demonstrating that citizens cannot effectively restore their rights by taking their cases to the court. This approach is detrimental to the effective defense of rights of public servants and public trust towards the courts.

This case exemplifies the problem of institutional subordination of the LEPL National Enforcement Bureau to the Ministry of Justice. Both the National Enforcement Bureau and the Crime Prevention Center are institutionally connected to the Ministry of Justice. The Minister of Justice appoints and dismisses the Heads of both agencies. The institutional connection of the National Enforcement Bureau to the Ministry of Justice

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creates a risk that the enforcement of decisions that are unacceptable to the Minister of Justice may be artificially protracted or left unexecuted.

We are calling on:

- **The Prosecutor's Office of Georgia - to start an investigation of this case and examine the facts indicative of an alleged crime;**
- **The Ministry of Justice Crime Prevention Center - to immediately reinstate the dismissed individuals in their positions and compensate them for the lost remuneration;**
- **The National Enforcement Center - to comply with its legal obligation and ensure unhindered enforcement of the court decision.**

It is important to revisit the existing mechanism for the enforcement of court decisions and reshape it in a way that avoids the potential influence of other agencies over the process of enforcement. Also, institutional independence of the Enforcement Agency has to be ensured.

[1] Tbilisi Court of Appeals Decision on N3b/4403-16, March 9, 2017; the Supreme Court Decision on N as 0 682-636-2017, September 15, 2017.