



NGOs Urging the Ministry of Finance of Georgia to Abide by Criminal Procedure Norms

According to the [June 27 media reports](#), the Ministry of Finances' (MOF) investigating service restricted the freedom of and took by force officials of Tbilisi City Hall and Sakrebulo to the MOF's office for questioning. According to the municipal officials, while driving they were forced to pull over by men dressed in civilian clothes, telling them that they were under arrest. The municipal officials were handcuffed, their cell phones taken away and driven to the police department.

Spokesperson of the investigating service confirmed to media that the municipal officials had been arrested for questioning in relation to a criminal case. She also said that "the investigating office has the right to inform an individual face to face that s/he has been summoned for questioning. There are several legal ways to do that and the investigating service chose this [one]".

Under para.3, Article 1489 of the Criminal Procedure Code allows bringing in by force of a witness for questioning in order to ensure his/her participating in investigating activities, provided s/he refuses to appear voluntarily. Pursuant to para.5, Article 149 of the Criminal Procedure Code, corresponding decision should have been made. Therefore, pursuant to the CPC, witness' refusal to participate voluntarily in investigating activities is a necessary precondition for bringing him/her in by force for questioning, which in its turn entails restriction of freedom and element of coercion.

Neither in its comments made for media nor in a statement published on its website did the MOF's investigating service have explained that the municipal officials had been summoned to appear voluntarily before investigating authorities, which

questions lawfulness of the measure utilized by the investigating service.

We would like to remind the Finance Ministry's investigations service that under the criminal procedure code, the measures restricting freedom and coercive measures can only be applied as a last resort. The procedural code unambiguously prohibits bringing in of a witness by force unless s/he was already given an opportunity to appear voluntarily before the investigating authorities. The procedural measures of unexpected nature – when one does not know what the investigating authorities wants from him/her and why coercive measures are applied – not only violate the requirements of the CPC but they also question the legitimate interests of conducting impartial and objective investigation into the case as well as the possibility to duly exercise the right to fair trial in future.

Further, the legitimate rationale behind arresting municipal officials and bringing them in by force remains ambiguous, considering that allegedly the arrested individuals have not been examined as witnesses in a due course, neither have protocols of arrest been drawn up against them. The ambiguity is further intensified by the fact that all of them were released in the morning and some were arrested in the evening. Although having released several public statements, the investigating authorities have failed to provide a convincing and legally founded response to questions that public has.

Activities of the MOF's investigating service possibly contain elements of crime envisaged by the Criminal Code of Georgia, casting a shadow on credibility of the ongoing investigation. Therefore, we urge all law enforcement authorities to refrain from violating the requirements of the CPC in the future and to investigate the foregoing facts in an impartial and effective manner.

Georgian Young Lawyers' Association (GYLA)
International Society for Fair Elections and Democracy (ISFED)
Transparency International – Georgia (TI)