

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



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GYLA CRITICALLY ASSESSES THE INITIATIVE DEPRIVING MAYOR REPRESENTATIVES OF THE QUALIFIED PUBLIC OFFICER'S STATUS

On 12 June 2019, a group of Parliament members [[1](#)] registered a bill of amendments to the Law of Georgia "On Public Service". According to the proposed amendment, municipality mayor representatives and other persons employed by the administrative units under municipalities (**except for Tbilisi municipality**) shall be deprived of the status of the qualified public officer and they shall be employed by the municipality based on an administrative agreement.

We believe that the status of the qualified public servants for representatives of municipality mayors should be maintained, as their functions are professional in nature, are not related to the implementation of the mayor's policy at the local level and do not necessarily coincide with the mayor's political views. It is noteworthy that an assistant or an adviser to a state-political official who is currently recruited under an administrative agreement in

public service does not have such broad powers, due to which aligning them with mayor's representatives and employing them under an administrative contract is not reasonable.

According to the “Local Self-Government Code,” the powers of a representative of a mayor are determined by the statute of the mayor. [12] The analysis of the statutes of municipality mayors revealed that mayor representatives mainly perform the following functions:

- Submit information to the Mayor regarding any issues existing in the administrative unit and possible ways of solution;
- Obtain statistical and other data or information requested by the mayor;
- Inform the public of legal acts of local self-government bodies and officials;
- Organize public surveys and discussions with the population of the administrative unit;
- Oversee the implementation of programs and activities funded from the local budget of the municipality in the administrative unit and periodically submit relevant information to the mayor;
- Monitor the condition of nature, cultural and historical monuments on the territory of the administrative unit and submit information to relevant authorities;
- Issue information requested by citizens on the origin of goods, family composition, and actual place of residence;
- Apply to the civil registration authority to register a child (if the child was born outside a medical institution without the assistance of a person authorized to issue a birth certificate) as prescribed by the Law of Georgia “On Civil Acts”, draw up a protocol confirming a person's death and apply to the civil registration authority for the registration of the person's death, apply to administrative units to establish facts of relevant legal importance into the person's death or birth.

In addition, according to the statute of municipality mayors, mayor representatives shall have a stamp and a blank form with the name of a respective administrative unit. The stamp of the mayor's representative shall be

affixed to confirm the authenticity of a document and applied onto any documents issued by such representatives (certificates, copies of documents produced by a representative of the mayor, protocols, acts of delivery-acceptance; characteristics; reference; annex to correspondences that contain data regarding an administrative unit).

In assessing the aforementioned legislative changes, it is important to take into account the local context and any possible risks associated with the adoption of the amendments. According to reports by international and local observation missions, [\[3\]](#) the ruling party actively engage public officials employed by municipalities in pre-election processes. **Depriving representatives of municipal mayors of the status of a qualified public servant and employing them under an administrative agreement will significantly worsen the standards for their protection and may be used by municipal mayors to engage public servants in pre-election campaigning.** Given that the mayor is a political figure and may take an unlimited part in a pre-election campaign and that the mayor representatives are under the direct subordination of mayors, they are particularly at risk of engaging in pre-election campaign, ***and if mayor representatives refuse to participate in pre-election campaign due to any possible reasons, the risk of being fired on political grounds increases.***

According to the current edition of the Law of Georgia “On Public Service”, an administrative agreement shall be offered at the central level and only state-political officials can employ persons under an administrative agreement. [\[4\]](#) According to the law, a person recruited on the basis of an agreement under public law shall provide support to a state-political official for the exercise by the state-political official of his / her powers by giving industry / sector-specific advice, rendering intellectual and technical assistance and / or performing organizational and managerial functions.”[\[5\]](#) Therefore, “assistants to state-political officials, advisers to state-political officials as well as employees of the personal staff/secretariat/bureau of state-political officials shall be recruited under an administrative agreement”. [\[6\]](#) **Furthermore, persons shall be recruited for public service on the basis of an agreement under public law without competition. [\[7\]](#)**

The Committee on Procedural Issues and Rules of the Parliament of Georgia (the

leading committee) supported the legislative initiative by first reading on 16 September 2019. GYLA urges the Parliament of Georgia not to introduce the aforementioned amendment to the Law of Georgia “On Public Service” in order not to endanger the principle of political neutrality in public service and not to increase the risks of using administrative resources for political purposes during the pre-election period.

[1] Members of Parliament: Giorgi Kakhiani, Guram Macharashvili, Irakli Beraia, Shalva Kiknavelidze

[2] Local Self-Government Code of Georgia, Article 54, paragraph 2.

[3] Georgian Young Lawyer's Association, Monitoring Mission of Local Self-Government Elections of 2017, Monitoring Report of Pre-Election Environment, Election Day and Post-Election Period, Tbilisi, 2018. Available at:

<https://gyla.ge/files/news/2006/untitled%20folder/Local%20Self-Government%20Elections%20-%202017.pdf>

[4] The Law of Georgia “On Public Service”, Article 3 (g).

[5] The Law of Georgia “On Public Service”, Article 3 (g).

[6] The Law of Georgia “On Public Service”, Article 78, paragraph 1.

[7] The Law of Georgia “On Public Service”, Article 78 paragraph 2 and Article 82.

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