

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Statement concerning actions taken against the organization Georgian Football Supporter

On June 2, 2012, the Georgian Chamber of Control's Party Monitoring Service, under the law infringement protocol, found the Georgian Football Supporter, a non-entrepreneurial non-commercial legal entity, was guilty of receiving up to USD 200,000 in illicit donations from different individuals and legal entities.

The Monitoring Service, subsequently, fined the Georgian Football Supporter and froze

its accounts under paragraph 1 and 4 of the article 261 and paragraphs 1 and 3 of article 342 of the Georgian Organic Law on Political Unions of Citizens as they are described below.

We think that fining this organization and impounding its accounts was in violation of existing legislation since the above articles of the law prescribe the following requirements for fines:

1. The entity should have express electoral purposes, and they must have used financial/material resources to achieve electoral goals;
2. The monitoring service should have a relevant administrative act regarding the restrictions of a given entity issued through common administrative proceedings; and
3. It should be established that the entity has actually received or concealed illicit contributions (such as donations from legal entities, foreign nationals and the like).

In this case, none of the above requirements are present since:

1. The organization has not received donations or other contributions from individual persons or legal entities over this period and has not concealed this information;
2. The organization has not used financial resources for electoral purposes, evident from its bank account statements (the organization's financial turnover over the period from 30 May to 4 June equals to zero);
3. Finally, the Monitoring Service has not issued a pertinent administrative act on imposing restrictions upon the Georgian Football Supporter.

The Court did not establish the fact of law infringement under paragraphs 1 and 3 of the article 342 on the part of the Georgian Football Supporter, a non-entrepreneurial and non-commercial legal entity.

The Monitoring Service demanded at the court hearing that the organization be fined on the grounds that it infringed upon paragraph 4 of the article 342 of the law, non-fulfilment of the requirements and liabilities prescribed by paragraphs 1 and 2 of the article 252 of the relevant law, i.e. promises to transfer tangible or intangible property to Georgian nationals for campaigning purposes.

The court granted the claim of the Monitoring Service and ruled that the Georgian

Football Supporter be fined by 5,000 Gel and its bank accounts be impounded.

We consider that the court ruling is not consistent with existing legislation due to the following:

The Georgian Football Supporter cannot be subject to sanctions established by paragraph 4 of the article 342 since the norm allows the imposition of a 5,000 Gel fine on an entity only if the entity has express electoral purposes and uses adequate financial or other material resources to achieve those purposes, upon which an administrative act should be issued by the Monitoring Service.

As indicated above, the administrative act has not been issued, and the organization has not used any financial resources for electoral purposes.

Subsequently, the court decision to impose a 5,000 Gel sanction on the Georgian Football Supporter and to impound its accounts is openly inconsistent with existing legislation.

The Georgian Chamber of Control and Court should strictly observe the requirements of the Law and be consistent in their decisions. Otherwise, given the existing reality, such attitudes only intensify the feeling of injustice among the political actors and encourage the creation of an unfair pre-election environment.

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