

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Statement of GYLA on Impounding of Global Contact Consulting Ltd's Property

On June 21, 2012, Tbilisi City Court's Board of Administrative Cases granted the motion of the Office of the General Prosecutor of Georgia and impounded technical equipment for broadcasting intended for Global Consulting Ltd. (antennas, receiver, convertors). The court's order was founded on the criminal case involving vote buying by certain individuals through handing out satellite dishes and receivers registered under Global Contact Consulting Ltd. According to the prosecution, despite the

address of the Chamber of Control of Georgia to the Global Contact Consulting, certain individuals continued handing out of TV antennas to voters in exchange for support of a political subject. The court ruled that technical equipments for broadcasting are a property is aimed to be used for committing a crime, in particular for vote buying. Therefore, the technical equipments were impounded.

We believe that while the state is responsible to take efficient measures to combat crime, the process must be conducted in unequivocal observance of principle of justice and law. The state is also responsible to treat cases that involve media-related prohibitions with special caution.

We believe that the June 21, 2012 order of Tbilisi City Court's Board of Administrative Cases on impounding the property was made in violation of procedures of the criminal law procedures due to the following circumstances:

- Article 151 of Criminal Procedures Code sets out the grounds for impounding property, stipulating that for enforcing a procedural measure of coercion - possible impounding of property - court may impound a property of an accused or an individual responsible for his/her action and/or an individual related to him/her based on a motion filed by a party. Since the criminal case has been initiated into alleged vote-buying with no particular defendant charged with criminal offense, court's order on impounding property amounts to violation of procedures law;
- Further, para. 2, Article 151 of the Criminal Procedures Code clarifies that the measure of impounding of property can be resorted in cases that involve one of the crimes envisaged by Articles 323 - 330 and 3311 of the Criminal Code of Georgia or any other crime of particular gravity. In the present case, para. 2 of Article 151 may not be cited as grounds for impounding property since vote-buying is qualified as less serious offence as opposed to a crime of particular gravity that allows for impounding property.
- We also find violation of Article 112 of the Criminal Procedures Code of Georgia since investigating action placing limitations on property, property ownership or right to privacy is conducted under a court's order or under investigator's resolution and without court's order in cases of urgent necessity. Investigative action was conducted on the territory under the ownership of Elita Burju Ltd., and despite the fact that both property and property ownership were restricted (Global Contact Consulting has

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rented space from Elita Burji) there the investigating action was conducted without court's order or investigator's resolution.

Since media and broadcast media in particular plays significant role in keeping public informed, while the right to receive and impart information is guaranteed by the Constitution of Georgia, all limitations that may impact freedom of expression shall be founded on law and a fair assessment of freedom of expression, media pluralism and legal goods protected by the criminal law. In this light, we call on the investigating authorities as well as court to abide by principles of justice and unequivocally follow legal requirements while discharging their authorities.