

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Georgian Young Lawyers' Association Responds to Dismissal of Employees of the National Agency of Public Registry

Several different news agencies have reported about dismissal of the following three employees of the National Agency of Public Registry, department of legal services – Imedi Arjevanidze, Manana Natroshvili and Mukhran Burchuladze. According to these reports, they were informed on March 18, 2013, upon their arrival at work that they

no longer worked at the agency.

First we must note that none of them have yet been submitted with an order about their dismissal, which makes it impossible for us to determine compliance of the decision of the director of National Agency of Public Registry with applicable law. However, an official statement made by First Deputy Minister of Justice Mr. Davit Jandieri allows us to draw certain conclusions (see the attached filed).

GYLA believes that stipulations of applicable Georgian laws have been violated against three former employees of the Agency. In particular, -In his statement released by media, the First Deputy Minister of Justice notes that one of the persons dismissed, Mukhran Burchuladze received a letter of warning by the Minister of Justice herself, which in addition to other requirements also noted that he had exercise restraint and correctness in his actions, as deemed appropriate for a person of his position, and it was his professional obligation to observe political neutrality. GYLA would like to note that the foregoing letter of the Minister of Justice released several weeks ago may not be considered as a measure of disciplinary liability - warning; moreover, the letter itself does not specify whether it has been issued based on disciplinary proceedings and/or legal norms regulating disciplinary proceedings. Further, failure to comply with the foregoing orders of the minister could not have served as grounds for imposition of a disciplinary liability as under the Georgian legislation employees of public registry are not prohibited from holding political beliefs, supporting a political union or making public statements about it. Further, as employees of a legal entity are not considered to be public servants, the standard of political neutrality established by the Law of Georgia on Public Service should not apply to them. Issuing of similar orders based on the requirement to abide by the principle of political neutrality amounts to curtailing freedom of expression guaranteed by the Constitution of Georgia and international acts.

-In his official statement Mr. Davit Jandieri also notes that the Justice Minister initially did not agree to dismissal of Imedo Arjevanidze and Manana Natroshvili. In this respect, we would like to note that under para.4, Article 6 of the National Agency of Public Registry's regulations, the chairperson of the agency appoints or dismisses in agreement with the Minister of Justice heads and deputy heads of structural subunits only. Evidentially, Ms. Manana Natroshvili is not a head or a deputy head of a structural subunit and therefore, it is peculiar that the Minister meddled in the purview of the chairperson. Under para.2, Article 5 of the regulations, chairperson of

the registry is authorized to make decisions about staff appointments/dismissals himself/herself, without state control.

-In his public statement the deputy minister also notes that the three employees that had been dismissed attempted to paralyze the office, calling for a strike, which made the Minister Tsulukiani change her mind. GYLA would like to recall that the right to go on a strike is recognized and guaranteed by the Constitution of Georgia, international human rights acts and even the Labor Code of Georgia that has been broadly recognized to provide for low standards of protection of employees' rights. Legislation does not put any limitations on exercising of the right to go on a strike for employees of the Agency and therefore, calls for a strike does not amount to a violation.

-Further, orders on dismissal has not been submitted to any of the three individuals and therefore, legal grounds for their dismissal is still unknown.

In view of the foregoing circumstances it is safe for us to conclude that employees of the National Agency of Public Registry have been dismissed in violation of applicable stipulations of law.

Notably, the Ministry of Justice of Georgia has elaborated a draft law for making a number of important and positive amendments to the Labor Code of Georgia. Civil sector, including GYLA was involved in the process of improving the draft. Part of our comments were taken into consideration by the MOJ. We would like to once more publicly commend the open and fruitful process. Further, we would like to highlight that changing employers' attitude towards the law is much more important than amending the law. If an employer (an particularly the one that has put forward a great initiative to amend the law) fails to strictly observe the law in everyday life, the amendments will have lesser effect. Not a single norm may guarantee that fairness and rule of law are guaranteed unless persons who must abide by the norms show some responsiveness.

GYLA will continue observing the developments at the public registry and stands ready to defend interests of unlawfully dismissed employees before common courts of Georgia.