

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA releases application on amendments introduced to the Government of Abkhazia Autonomous Republic

IDPs' initiative group has applied to GYLA with a view to study and assess recent developments in the government of Autonomous Republic of Abkhazia. Considering the wide public interest (especially from IDPs' side), we deem it necessary to release a public statement on the issue, after studying the facts of the case.

In particular, following events have taken place in the government of autonomous

republic of Abkhazia:

On April 5, 2013 Giorgi Baramia, the head of government of Autonomous Republic of Abkhazia applied to the High Council of Autonomous Republic with request of resignation.

On April 8, 2013 the High Council made resolution on Giorgi Baramia's dismissal from the post. It should be noted that the High Council made decision of release of the former chair of the government without negotiating the issue with the President as provided by the Constitution of the Autonomous Republic and other requirements of the legislation. In the given case the legislation does not differentiate resignation on the basis of personal application and dismissal on other grounds. Legislation sets common procedures in all cases of dismissal. Consequently, in the given case (although it might bear pro-forma nature), the decision on dismissal of the head of the High Council should have been taken upon agreement with the President.

Furthermore, on April 8, 2013 the Supreme Council appointed Vakhtang Kholbaia, member of the Council as acting head of the government, without terminating his authority as of the member of the Council. According to the regulations of the high Council applied by that time, the authority of the member of the council should be terminated preliminary if he "occupies a position incompatible with the status of the member of the high Council". Notwithstanding requirement of the normative acts, as mentioned already, V.Kholbaia's authority, as of the member of the Council has not been terminated.

Allegedly, for elimination of the gap, the High Council introduced amendments to regulations of the High Council of Autonomous Republic of Abkhazia. By this amendment, in case of electing or appointing a member of the council on the position of the state-political importance, his authority is terminated automatically. The amendment, however, cannot justify previous deficiencies. Furthermore, such impression is created as though the amendment was introduced to "correct" already made mistake, rather than to establish a better rule for formation of the representative organ.

Absolute protection of legislation by supreme bodies of the state authority promotes development of rule of law in public. Public agencies should follow the established rules whether they favor them or not and if established rules require amendments,

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firstly they should be changed and afterwards the relevant administrative conduct should follow from administrative agencies in line with amended principles, rather than vice versa. Moreover, normative acts should change when general rules of conduct are developed rather than when such amendment is in the interest of the concrete individual or group of individuals.