

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



**Petition of the Campaign It Affects
You Too Member National NGOs To
International Organizations,
Observers and the Diplomatic Corps**

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Image not found or type unknown

We, the campaign It Affects You Too member national NGOs would like to respond the critical developments during this difficult pre-election period, briefly sum up the existing circumstances and contribute to the improvement of the situation.

Local NGOs have been monitoring pre-election processes and their compliance with applicable legislation since January 1, 2012. In this respect, work of the state agencies remains to be a key focus of our monitoring. Throughout this period, we have accumulated a rich material that allows us to provide a preliminary and general assessment of the election environment in the country. Indeed, activities pursued by state agencies towards the work of political parties are unprecedented in terms of their intensity and scale.

Cases examined by us allow us to conclude that the work of state agencies from the pre-election point of view is too subjective, aimed at harassment of oppositional parties and the main oppositional coalition in particular. A number of serious allegations on about vote-buying, illegal contributions or use of administrative resources by the ruling party remains without a response. In the beginning of its work, the State Audit Service was trying to make its activities look more or less impartial, which they are no longer even trying to. Small-scale and inadequately small number of decisions against the ruling party, while major violations have gone without any response, lead us to believe that the State Audit Service is actually serving as yet another leverage in hands of the ruling party and its work falls short of the principle of political neutrality, as illustrated by the most recent election of the General Auditor. We also remember that scandalous information made public by former coordinator of the political union United National Movement during a TV program Without Accreditation aired on Maestro TV about violations committed by the ruling party, including about employing coordinators of the party in public service. Further, although we filed applications soliciting information to verify the issue, in gross violation of the Georgian law, Tbilisi City Hall and Sakrebulo has not provided any information.

Indeed, considerable lack of openness of state agencies, their lack of willingness to provide access to information about public finances is particularly striking in light of the fact that the State Audit Service is demanding unjustifiable and unprecedented transparency from natural persons related to political parties. Under the

circumstances, responsibility of the State Audit Service to respond to illegal use of administrative cases in an adequate and timely manner is further increased. However, regrettably, it has not made a single decision that we can recall in this regard.

Rudiments of this sharply unequal playing field appeared as early as in October 2011 when the Parliament of Georgia tailored legislation to its political interests in consideration of appearance of Bidzina Ivanishvili, a key opposition figure, on the political scene. Specifically, legislation applicable to party funding was burdened while in comparison, legislation applicable to supervision of illegal use of administrative resources became mild and disproportionate while only the ruling party is able to use

Image not found or type unknown

the administrative resources illegally.

We have witnessed not only the problematic legislation but also its enforcement by state agencies in a manner which is further problematic, flawed and arbitrary against oppositional parties in particular. The assumption is supported by a number of examples, including approaches and unhealthy practices revealed by the monitoring is confirmed by several recent cases when the State Audit Service, without any adequate substantiation, demanded that oppositional leaders Bidzina Ivanishvili and Kakha Kaladze present financial documents reflecting withdrawal of funds from their bank accounts throughout 2012. Following refusal, the State Audit Service suggested that they return withdrawn funds back to their bank accounts.

With its actions, the State Audit Service surpassed its purview of financial monitoring delegated by law. In the first case, in violation of legal standard and without proper substantiation, the agency demanded the addressees to complete financial information and afterwards suggested that they undertake specific actions, which falls beyond its authority.

Since the State Audit Service's suggestion about returning the withdrawn money back to the bank accounts did not amount to a legal obligation, failure to comply with it could not have served as grounds for any liability. However, according to today's reports, the Audit Service applied to court demanding impounding of Kakha Kaladze's property and bank accounts. We are yet unaware of legal grounds and substantiation of the State Audit Service's demand. However, it is safe to say that if there are any links between these facts, demand to impound property of Kalandze will be completely unlawful and unsubstantiated.

It is noteworthy that the attempt to shift burden of proof to natural persons is evident in the actions of the State Audit Service, which is a completely unacceptable precedent. The responsibility of the State Audit Service is to present a substantiated position by making reference to corresponding evidence. In light of the fact that a state agency with significant resources is unable to present corresponding evidence, shifting the burden of proof to a natural person and obligating it to prove lawfulness of its actions is unacceptable.

Under the given circumstances, due administration of justice becomes particularly pressing. In light of the fact that a number of serious flaws are evident in the work of the State Audit Service, it is important that an impartial and fair court acts as a guarantor of balance and protection of rights.

Observation on ongoing developments suggests that that the judicial authority is more loyal towards the State Audit Service. This assumption is confirmed by the fact that court does not refuse to grant motions filed by the State Audit Service despite their serious lack of substantiation and argumentation.

In light of the fact that deficient legislative framework curtails the defense's right to a fair trial by fixing unreasonable timeframe for examining a case, it is important that court creates the since of objectivity and impartiality with its actions, and ensures equality of arms and due substantiation of its decisions. Regrettably, recent precedents called in question administration of justice in such a manner.

Violation of law by any political party is indeed equally unacceptable and calls for application of corresponding measures against offender. Activities of all political parties should limited to legal framework and violation of law should not be encouraged. Regrettably, due and impartial enforcement of law is not evident.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Instead, law is selectively applied, inflicting irreparable damage to the election environment in Georgia.

We petition to international observers, international organizations and the diplomatic corps accredited in Georgia to make every effort for improving election environment in Georgia and give timely and appropriate assessment to repressive actions of state agencies in this regard.