



საია საკონსტიტუციო სასამართლოში ბაჩანა
შენგელიას ინტერესებს დაიცავს

GYLA to represent the interests of Bachana Shengelia in the Constitutional Court

GYLA appealed to the Constitutional Court on behalf of Bachana Shengelia. As it is known to the public, on June 24, the Ministry of Justice of Georgia started disciplinary proceedings against a notary Bachana Shengelia. The disciplinary proceedings were based on Bachana Shengelia's personal views expressed on his personal Facebook page, which, according to the General Inspection, were "public disclosure of biased policy" and "political assessments."

Observance of the principle of political neutrality by a notary is established by Order # 69 of the Minister of Justice of Georgia. According to the amendments made to it on 22nd May 2020, violation of this principle is serious disciplinary misconduct and provides for the suspension of powers for a period of one month to two years.

According to the GYLA assessment, the mentioned order of the Minister of Justice regulates the content of freedom of expression. According to the order, the notary is obliged to make only content-neutral statements regarding politicians and political

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issues, while making political statements, including on a personal Facebook page, is prohibited. This imposition of content-based restriction on the freedom of expression of a notary is contrary to Georgia's Constitution.

According to paragraph 5 of Article 17 of the Constitution of Georgia, restriction of freedom of expression is allowed "only in accordance with the law." By a subordinate normative act, including an order of the Minister of Justice, it is inadmissible to impose a content-based restriction on freedom of expression. Only Parliament has the power to impose such restrictions. [1] Order # 69 of the Minister of Justice of Georgia violates not only the requirements of paragraph 5 of Article 17 of the Constitution of Georgia but also the decision of the Constitutional Court of August 2, 2019, by imposing content-based restrictions. Due to this, GYLA requests that the appealed norm be declared unconstitutional without consideration of the merits at the directions hearing.

Also, GYLA has filed arguments alleging that punishing a notary for expressing political sympathy or antipathy on a notary's personal Facebook page is a disproportionate measure and constitutes a serious interference with the notary's freedom of political expression as a Georgian citizen. Such a measure could not be justified for any legitimate purpose. Simultaneously, the sanction imposed on a notary for making a political statement is inadequately severe. Making a political statement is considered a serious type of misconduct and even in the first case provides for the suspension of a notary public. The application of this strict measure is not preceded by a warning or reprimand provided for minor or moderate disciplinary misconduct.

[1] The Constitutional Court of Georgia, by its Judgment of August 2, 2019 (<https://constcourt.ge/ka/judicial-acts?legal=1931>) declared unconstitutional the decision of the National Communications Commission, which imposed content-based restrictions on freedom of expression.