

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Media Legal Defense Center will protect Giorgi Baratashvili's interests in a court

On September 6, 2013 Giorgi Baratashvili, the general director of the Public Broadcaster was dismissed from the office on the basis of announced distrust from the Board of Trustees. Today, Giorgi Baratashvili challenged Board's decision in Tbilisi City Court. It is already the second case when GMLDC will represent his interests in a court.

With a view to justify unlawfulness of the Board's decision, number of arguments was brought in the lawsuit. In particular:

-Public Broadcaster is a legal entity of public law, and the law on Legal Entity of Public

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Law is applicable thereto. Article 3(1) of the Law provides that legal entity of public law has special capacity to right with a view to implement stated objectives and functions. The Board of Trustees (or its member) is not authorized to implement such operations which they are not entitled to exercise according to the relevant legislation. The special legislation that regulates operation of the public broadcaster does not allow board members of to be represented at the sessions via their representatives or to attend them by means of a Skype. According to Article 321 of the Law on Broadcasting, Board of Trustees is authorized to declare distrust to the General Director by majority of the total votes (by more than a half of the composition of all the 15 members of the Board). As far as in case of two members the voting process was incorrect, the Board was not authorized to declare distrust to the General Director by 7 votes.

-Distrust against Giorgi Baratshvili was declared on August 30, 2013 when members of the Board demanded his resignation in a written form. Article 321(5) of the Law on Broadcasting provides that if the Board does not declare distrust to the general director, it is not authorized to do so for the following six months. The first case of declaring distrust to Giorgi Baratashvili was on March 4, 2013 with gross violation of legislation. The decision was invalidated by April 15, 2013 decision of the court. The court explained that there were no sufficient votes for making the decision. Invalidation of Board's decision for insufficient votes means that distrust is deemed non-declared from the very beginning.

-Accordingly, it is clear that 6 months term, when re-declaring of distrust to the General Director was not permitted, had not been expired by August 30, 2013.

- According to Article 53(1) of the General Administrative Code of Georgia, September 6, 2013 decision of the Board should be substantiated yet it lacks any reasoning.

It should be noted that none of the employees should be dismissed from the post without sufficient grounds, not to mention general director of the public broadcaster. We regret that the Board of Trustees makes the similar decision already the second time. In addition to the mentioned, the lawsuit also provides other argumentation. Though each arguments are well grounded, even one argument accepted by the court will be enough for satisfying the claim.

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