

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Response to Tbilisi City Hall's Response

Tbilisi City Hall responded to GYLA's letter addressed to Tbilisi Mayor, dated March 21, 2013. The city hall explained that there were no violations of law involved and therefore, GYLA's claims were groundless. The city hall finishes the letter by "reminding" to GYLA that information about legal entities can also be obtained from the public registry's website.

We deem it important to explain to the city hall once more that providing access to

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public information is an unconditional obligation stipulated by law, as opposed to simply a kind will of administrative agencies. We hope that this simple truth will not be challenged by Tbilisi City Hall. Whether the city hall abides by this obligation is questionable. This time, we are not going to cite many researches, applications and complaints prepared by GYLA and other NGOs, providing an in-depth overview of Tbilisi City Hall's "abidance" to the obligation but rather, we are going to address individual paragraphs in the city hall's written response. This will serve sufficient to illustrate the city hall's attitude towards law on the one hand and to public's demands on the other:

1) The first paragraph of the letter notes that the city hall provided Studio Monitor with public information that it is legally obligated to provide access to. The city hall should have also noted that Studio Monitor was able to receive the information only after GYLA provided legal assistance and **17 months after** the term prescribed by law for provision of public information had expired – following lengthy court disputes and delayed enforcement. The law imposes administrative agencies with an obligation to provide access to public information immediately and not after a litigation.

2) The response also noted that for detailed information GYLA should have applied to Tbilisi Development Fund. However, under para.1, Article 80 of the General Administrative Code of Georgia, the city hall is directly obligated to refer GYLA's application to corresponding agency for further actions. Hereby, we'd like to highlight the kind of information requested by GYLA that the city hall said it did not possess: according to official reports, over the recent years total of **GEL 367 259 251** has been spent on rehabilitation works by funds set up by Tbilisi City Hall. These are the **budget funds** and GYLA requested information about **individual amounts spent on each object, individual companies that performed rehabilitation works and how were these companies selected**. In response, Tbilisi City Hall simply stated that it does not process any such information!... To put it mildly, it is peculiar that an administrative agency transfers hundreds of millions of laris to a legal entities of private law, without requesting information about spending of these funds.

3) Tbilisi City Hall's response also notes that on February 20 the MOF's investigating authorities completely seized official records documenting activities of Tbilisi Development Fund, and therefore, "it is impossible to provide access to any information until these documents are returned". Further, we'd like to note the following: 1. Initially, GYLA's request for the foregoing information was submitted

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before February 20 and therefore, failure to provide the information may not be justified with further actions of the investigating authorities. 2. The city hall referred us to the fund in response to GYLA's similar application requesting access to public information, dated March 11. If the city hall believed that it was impossible to provide access to any information until these documents were returned by the investigating authorities, what was the point of referring us to the fund?! 3. The fact that the investigating authorities took interest in activities of the foundation further reinforces the questions and suspicions that NGOs have had for a long time about lack of transparency of activities of these funds. GYLA produced a number of researches addressing the issue and focusing on lack of transparency of spending budget funds as the key problem. The questions remain unanswered.

4) Further, it is peculiar that the city hall indicated wrong address of Tbilisi Development Fund in its response. If the city hall was aware of the fact that the fund had relocated to a different address, the reason why it provided us with wrong information is not clear. If the city hall was unaware of the relocation, the reason why it did not refer to the public registry's website for verifying the address is unclear, even though in its response it "reminded" GYLA that information about legal entities could be obtained from the website. We are ready to accept and take into account any reasonable advice and reminder; however, the foregoing reminder was rather inappropriate. Further, in its application GYLA was not asking for the fund's address but rather, provided the inaccurate information to us on its own initiative, failing to address questions raised in the application about issues of public interest - **individual amounts spent on each object, and how were individual companies that spent GEL 367 259 251 allocated from budget funds selected**