

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Response to the Statement of the State Audit Agency

Georgian Young Lawyers' Association

Transparency International - Georgia

On July 4, 2012, the State Audit Agency published a statement responding the letter [What was Bidzina Ivanishvili Fined For?](#) published by NGOs Georgian Young Lawyers' Association (GYLA) and Transparency International - Georgia on June 28.

In its statement the State Audit Agency addresses not only the arguments related to

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appearance of the State Audit Agency before court and evidence submitted by it but also tries to justify certain actions of court, its decisions, which is beyond the agency's purview.

The State Audit Agency refers to the NGOs' evaluation of Bidzina Ivanishvili's fining as "a very bold and loud assessment"; however it also fails to offer substantiated arguments for invalidating objective and impartial arguments presented by us.

1. We do not share the view that "the analysis is one-sided or incomplete" due to the fact that it allegedly fails "to provide information about position of the administrative agency to a reader who's interested". We once again confirm that in Bidzina Ivanishvili's case the defense was unable to realize the right it is legally entitled to - it was not given reasonable time to prepare defense, which would have allowed court to ensure realization of rights of an alleged offender and reinforced justice before law and court based on the principle of equality of arms.

It is further noteworthy that the time when the notice was handed to the defense did not allow for a reasonable doubt that the defense was provided with reasonable time to prepare for the case: notice should be handed to parties or their representatives so that they have reasonable time to appear before court and prepare for the case.

We believe that the motion of the defense for postponement of the trial was substantiated since when due to its complexity and/or volume it is impossible to familiarize with evidence during trial, postponement of trial is expedient. We don't share the view that court's action when it announced a recess and postponed June 8 trial for June 11 shows "court's desire for a comprehensive, complete and objective trial" and that "it provided additional time for the party to better formulate its position."

It is noteworthy that during the trial on June 8, court announced a recess prior to the start of debates, when all important stages, including review and examination of evidence, were already completed and the only stage remaining was debates and retortion. Further, in view of the fact that the it took the State Audit Agency at least 1 month to prepare both cases, announcement of a recess and postponement of the

trial for June 11 is insufficient to argue that the party was provided with additional time to better formulate its position or to submit evidence or to illustrate court's desire for a comprehensive, complete and objective trial.

2. Statement of the State Audit Agency notes that they submitted to court 'an array of evidence, which cumulatively prove unquestionably that Bidzina Ivanishvili made donations through variety of campaigns.' Further, the administrative agency deemed the analysis of the NGOs as partial and noted that facts presented by the organizations are incomplete. In this regard we'd like to note that evidence submitted by the State Audit Agency not only fail to "cumulatively prove unquestionably that Bidzina Ivanishvili made donations through variety of campaigns" but it also fails to establish a legal link between the natural person Birzina Ivanishvili with legal persons. It should also be considered that evidence for establishing ties with Bidzina Ivanishvili's business companies were presented by the State Agency of Audit belatedly, at the debates stage during the trial, followed by their immediate admission by court and enclosure to the case file.

The evidence cited by the State Audit Agency in its statement does not include an extract from the registry of entrepreneurial and non-entrepreneurial (non-profit) legal entities that would have expressly confirmed Bidzina Ivanishvili's legal ties with companies involved in the case.

3. As to granting the motions by court, we believe that the certificate of registration of the political union and the company's business plan did not constitute "a very comprehensive evidence" contrary to the belief of the administrative agency, requiring the judge to leave the courtroom for a meeting room to make a decision after a one-hour long meeting. The court immediately admitted the evidence presented by the State Audit Agency belatedly and enclosed them to the case file, which leads us to conclude that justice in the present case was not administered pursuant to the principle of equality of arms.

It must also be considered that in its statement the State Audit Agency does not deny that court admitted the evidence submitted by the agency belatedly; however, in order to justify its actions, the agency notes that they were unable to submit the evidence earlier for a valid reason, due to the time constraints in the administrative proceedings. It must also be noted that time constraints in the administrative proceedings were one of the reasons for the refusal to give additional time to the

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defense to familiarize with the case file. Therefore, it is logical to conclude that such actions of court damages its reputation as an objective arbiter and allows questioning its objectiveness.

We'd like to emphasize once more that our judgment was based on the trial processes, existing evidence and materials presented by the State Audit Agency, which allowed us to declare that court's decision in Ivanishvili's case was not founded on a comprehensive, complete and objective review of the case and did not comply with the law.

Instead of utilizing its valuable time and resources to "reveal the bias nature and distortion of facts" by civil society representatives, we believe that the State Audit Agency should have a particular sense of responsibility itself and needs to less rely on unsubstantiated opinions and assumptions but rather, use legal arguments to substantiate its position. Furthermore, instead of a punitive mission, the agency should focus more time and resources on raising public awareness, revealing causes of violations committed and their prevention, which will positively reflect on objectiveness of its work and will undoubtedly strengthen public confidence in the agency.

As representatives of NGOs we welcome constructive engagement with the State Audit Agency of Georgia, with an end goal of increasing transparency and building public confidence in the agency. Further, it is our fair desire that decisions of the administrative agency be based on evidence obtained through comprehensive, thorough and objective examination; comprehensive, thorough and objective examination of cases and settlement of cases in full compliance with the Georgian legislation.

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