

სამართლებრივი განმარტებები ოთარ ფახსნაძის მოქალაქეობის საკითხზე



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საქართველო

Legal explanation on the issue of the citizenship of Otar Partskhaladze

It has become known for the public that on September 14, 2023, the U.S. State Department included Otar Partskhaladze – the former Chief Prosecutor of Georgia and a person close to Bidzina Ivanishvili – family – in the list of sanctioned persons, citing Otar Partskhaladze – connection with the Russian Federal Security Service as the reason.¹ The State Department noted in its statement that Otar Partskhaladze had received a Russian passport and possibly Russian citizenship with the assistance of Aleksandr Onishchenko, an officer of the Russian Federal Security Service.²

According to the Organic Law of Georgia on Georgian Citizenship, a Georgian citizen loses Georgian citizenship if he/she acquires foreign citizenship, except the case when he/she retains Georgian citizenship.³ In case of acquiring foreign citizenship, a citizen of Georgia retains Georgian citizenship if, before acquiring foreign citizenship he/she obtains consent from the Georgian State to retain Georgian citizenship.⁴ The law establishes in a straightforward manner that at the time of acquiring foreign citizenship, the retention of Georgian citizenship requires a preliminary consent of a

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relevant agency of Georgia. Accordingly, acquiring foreign citizenship without a preliminary consent of the State constitutes the grounds for losing citizenship for Otar Partskhaladze.

It is noteworthy that, according to the Administration of the President of Georgia, Otar Partskhaladze has not applied to a relevant agency with the aim of retaining Georgian citizenship. In addition, yesterday the President disseminated information that she was waiting for a report from agency on the termination of Georgian citizenship for Otar Partskhaladze, which she was going to approve immediately.⁵

According to the law, if the Public Service Development Agency (hereinafter []A) learns about the existence of the grounds for losing Georgian citizenship, the Agency is obligated to consider the issue of losing of Georgian citizenship on its own initiative and to submit corresponding materials to the President of Georgia. The news of acquiring Russian citizenship by Otar Partskhaladze was already covered by the media several months ago. Therefore, the Agency should have initiated the statutory procedures on its own initiative till now and submitted the report to the President.

In addition, examination of the issue may reveal one more ground for losing the citizenship:

- joining military, police, or security services of a foreign country, without permission of competent Georgian authorities.⁶

The information that Otar Partskhaladze had a connection with the Russian Federal Security Service without the permission of the Georgian State may also become an additional ground for termination of Georgian citizenship.

Why can the retention of Georgian citizenship be important for Otar Partskhaladze?

Since February 26, 2022, on the instruction of the National Bank of Georgia (NBG), the financial institutions of Georgia have been acting in full compliance with the financial sanctions imposed by the U.S., EU and Great Britain against the Russian Federation.

On September 19, 2023, the National Bank of Georgia developed and put into effect changes to Order No. 208/04 of the President of the National Bank of Georgia of August 4, 2023, according to which the regime of sanctions extends to:

a) a citizen of Georgia, if a final judgment of conviction has been delivered against him/her by a court of Georgia in connection with the grounds for sanctions imposed on him/her;

b) a legal entity registered in Georgia in which a sanctioned citizen (citizens) of Georgia owns (own) a stake, if a final judgment of conviction has been delivered by a court of Georgia in connection with the grounds for the imposed sanctions.

The timing and circumstances of making the changes to the order by the NBG create a well-reasoned basis to suppose that the changes serve the interests of only one person, Otar Partskhaladze, which is unacceptable and incompatible with the constitutional order. Referring to legal guarantees for him as a Georgian citizen is devoid of any basis in any context. The fact that he still formally holds the Georgian citizenship is a violation of law.

Georgian Young Lawyers' Association (GYLA)

International Society for Fair Elections and Democracy (ISFED)

Transparency International Georgia (TI Georgia)

1 Russia-related Designations, Designations Updates, and Designations Removals; Issuance of Russia-related General Licenses, U.S. DEPARTMENT OF THE TREASURY, 09.14.2023; <https://ofac.treasury.gov/recent-actions/20230914>

2 Imposing Further Sanctions in Response to Russia [] Illegal War Against Ukraine, U.S. Department of State, 14.09.2023;

https://www.state.gov/imposing-further-sanctions-in-response-to-russias-illegal-war-against-ukraine/?fbclid=IwAR0_9e9UWGbTFOK3Nxuyo4wBmzGGeLKH7NQlowGcd26zcwnWOt3vmxFl

3 Organic Law of Georgia on Georgian Citizenship, Article 21.1.c

4 Organic Law of Georgia on Georgian Citizenship, Article 211.1

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<https://www.facebook.com/zourabichvilisalome/posts/pfbid0wiS3TKDPNdtis6UB45eujvcBtBj8Jratom-aqvs-partskhaladzes-ormagi-moqalaeoba-bregadzis-utskeba-kitkhas-gau>

6 Organic Law of Georgia on Georgian Citizenship, Article 21.1.a