

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



**Statement of GYLA concerning launch
of criminal investigation against
individuals summoned by the
Chamber of Control of Georgia**

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Image not found or type unknown

Today, on March 16, 2012, at 15:00, Georgian Young Lawyers' Association held a press-conference concerning individuals summoned at bureaus of the Interior Ministry pursuant to the criminal procedure.

GYLA believes that launch of investigation pursuant to Article 3482 of the Criminal Code of Georgia by the Interior Ministry, with regard to refusal to provide statements by persons summoned by the Chamber of Control under the frames of administrative proceedings is unlawful.

As public is aware, throughout the recent days, the Chamber of Control was intensely summoning citizens for giving statements by providing them with identical notices.

According to the Chamber's notice, individuals are summoned with reference to the administrative proceedings launched over the facts of funding of political subjects by means of making an ostentatious and hypocritical agreement.

The notice also explains the rights and obligations envisaged by Article 252 of the Code of Criminal Offences of Georgia to summoned individuals. These are the rights of persons held liable for administrative offences.

The Chamber notes that failure to fulfill the obligation to provide the Chamber of Control of Georgia with requested information is punishable by applicable law. However, it does not specify the law that may serve as the basis for imposing the liability or the type of liability that can be imposed on an offender.

GYLA believes that the notice is rather ambiguous and the legal consequences of failure to comply with it are not predictable. Therefore, failure to comply with obligations laid out by the notice may not serve as grounds for instituting investigation or imposing legal liability on an offender due to the following circumstances:

- The notice fails to indicate a specific case that these individuals have been summoned for or the type of proceedings instituted by the Chamber of Control. The notes make reference to administrative proceedings, administrative offence and possibly a malicious agreement envisaged by the Criminal Code of Georgia, which is a different sphere of litigation where different procedural guarantees are envisaged for

an alleged offender.

- Notices clarify rights and obligations of citizens that are held liable in administrative proceedings (Article 252 of the Code of Administrative Offences), which clearly means that they have not been summoned as witnesses. If the Chamber of Control had wanted to summon them as witnesses, in its notice would have referred to Article 256 of the Code of Administrative Offences of Georgia stipulating definition of a witness, rather than Article 252. The agency makes no reference to status of these individuals. Furthermore, it uses the term “statement” as opposed to the term “testimony”, which does not allow us to assume that these persons were to be examined as witnesses. Therefore, failure to appear and/or refuse to provide a statement may not serve as grounds for charging these persons for commission of crime envisaged by Article 3482 of the Criminal Code of Georgia. Notices that are too ambiguous do not allow predicting such liability of individuals concerned.

- It is also noteworthy that if notices clarify rights and obligations of persons held liable in administrative proceedings, refusal to provide a statement may not serve as grounds for their criminal liability since right of an offender to refuse to testify against himself/herself is one of the key principles of fair judiciary.

- Furthermore, GYLA believes that even if these persons were summoned as witnesses, due to ambiguity of notices, specific facts that they were expected to testify for would have been unclear for them. As factual information obtained by lawyers of GYLA has revealed, persons that were summoned frequently highlight the fact that questions were vague, not related to any specific fact. Furthermore, information requested from individuals frequently violated right to privacy.

Therefore, GYLA believes that the aforementioned cases do not contain any signs of a criminal offence. The Chamber of Control groundlessly referred the materials to respective bureaus of the Interior Ministries with a request to launch investigations, which reinforced suspicions about compliance of the process with lawful aims. Failure of individuals summoned on the basis of vague and unpredictable notice to appear may not serve as grounds for launch of investigation by the Interior Ministry and future imposition of criminal liability on individuals concerned.

GYLA states that recent mass activities of the Chamber of Control and the Interior Ministry afterwards in the regions of Georgia involve wrongful application of relevant

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



legislation. Such approach of the Chamber of Control and the Interior Ministry reinforces suspicions that these activities fall well beyond the work of inspecting party finances, increasingly resembling the prosecution of people on political grounds.