

The False Charity Foundations

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Through a study of false charity foundations, this study explains the corruption schemes through which false foundations, in cooperation with governmental structures, create illegal-criminal networks, thereby stealing millions of dollars and bringing tremendous damage to the State.

In the research work, two foundations created for charity purposes, particularly, “Fund for Salvation of Abkhazia” and “International Fund for Aid to Abkhazia” are used as examples to demonstrate corruption schemes of false charity foundations. The particular examples given in the research show a general picture of how tightly related the activities of the false charity foundations to the corrupt activities of such governmental structures like Ministry of Finance, General Prosecutor’s Office and legal institutions. The research also shows the deficiencies in the legislation, which facilitating illegal activities and corrupt dealing, and provides recommendations necessary to improve the situation.

According to the data of the Ministry of Justice, by 2004 about 1500 charity foundations had been registered in Georgia. To register a charity foundation in Georgia, the foundation’s creator must allocate a sum large enough to cover the charity’s proposed activities in a bank in the name of the charity. Taking into account the existing social-political and economic conditions, it can be supposed that a large number of these foundations did not own the necessary property to implement the ir determined goals, and that these organizations were created with the purpose of laundering money and evading taxes, which, of course, were achieved through the corrupt deals.

The following issues are examined and discussed in the research work:

1. Lawfulness of using government control mechanisms over the activities of charity foundations created to provide assistance to the population displaced from Abkhazia.
2. Lawfulness of assigning cargos imported by foundations as grants.
3. Criminal cases related to the distribution of illegal cargos imported to Georgia as grants.

4. Participation of governmental structures in corrupt deals with the leaders of false charity foundations.
5. Deficiencies in legislation facilitating illegal activities of foundations.
6. Size of damage brought to the State as a result of illegal activities of charity foundations and possible means for compensation of damage.

The research lists the violations related to the registration of false charity foundations and their activities, also illegal actions taken by various governmental bodies including: Ministry of Finances and Ministry of Interior, investigation services of the Ministry of Interior and Ministry of State Security, General Prosecutor's Office, Vake-Saburtalo District Court and Tbilisi Regional Court. Decisions made by the (often corrupt) Ministry of Justice helped create the systemic character of violations associated with false charity institutions.

Two foundations, "Foundation Sokhumi for Salvation of Abkhazia" and "Foundation Sokhumi for International Aid to Abkhazia," were registered in the Ministry of Justice in 1998 and 2000, respectively, in complete violation of laws governing charities. In addition, the Ministry did not impose control on the foundations' further activities. The Ministry of Finance, Ministry of Revenue, and the Office for the Fight Against Corruption (Ministry of Interior) all had at some point the responsibility of monitor charities for possible illegal activity.

The Ministry of Finance unlawfully granted the right to "the Foundation Sokhumi for Salvation of Abkhazia" to import food products to the country with a grant status, and at the same time, never fulfilled its function to control the activities of the Foundation. Only the Office of Fight Against Corruption (Ministry of Interior) could uncover facts of unlawful activities of the foundations though the investigation service of the Ministry of Interior did not open a case against the criminal group behind the charity's illegal actions.

The court also violated the law in relation to the criminal cases on these foundations. Even though a criminal case was brought to the court against the leaders of the Foundation Sokhumi for Salvation of Abkhazia, the same leaders easily managed to found the new "Foundation Sokhumi for International Aid to Abkhazia."

The leaders of the Foundation Sokhumi for Salvation of Abkhazia contacted Levan Totladze, President of the Foundation Mecenat, with the purpose of seeking a grant, and in negotiation with him the charity attempted to adapt the intended illegal actions to the legal

framework. To do they, the charity's leaders made a false agreement dated by 12 March 1999, which showed that they Turkish charity foundation Bahari gave the Foundation Soukhumi food products US\$460,000, 35 percent of which would stay in the Foundation's ownership and the 65 % would be distributed among the vulnerable population of Georgia, including those displaced from Abkhazia.

The conclusion of this agreement was unlawful, since according to the agreement if the Foundation failed to meet the undertaken obligations, the grant provider could demand from the Foundation for the return of the property purchased by the grant, or its equivalent sum. But actually, the property of the Foundation was so minimal that it would be impossible for the Foundation to meet this requirement.

In 1999, the Foundation Soukhumi received a grant of 3,000 tons of wheat flour and 450 tons of sugar which had a value of 745,968 and 13,200 lari, respectively, as indicated in the customs declaration. The market value of the above products was equal to 1.6 million lari by that time. The Foundation Soukhumi distributed the products at market prices instead of giving them to the vulnerable population, and the gained monies were misappropriated by the leaders of the Foundation. The sales were recorded as if the products were distributed among the vulnerable population free of charge.

Document retrieved showed that the investigative bodies were also involved in the corrupt deal. An investigation conducted in 2001-2002 did not accuse the leaders of the Foundation Sokhumi and Foundation Mecenati of criminal activities. The negligence of the investigative bodies in effect helped the criminal group to continue their illicit activities.

According to materials obtained from the Ministry of Finance, the number of permissions granted include: 20 in 1998; 27 in 1999; 30 in 2000; 35 in 2001; 22 in 2002; 26 in 2003; 40 in 2004; and 17 in 2005. Out of 197 permissions, 11 did not meet basic requirements, including four in 1999; three in 2000; one in 2002; two in 2003; and one in 2004.

The analysis showed that the number of grant permissions received by the Foundation Soukhumi is quite rare. Only four times has the number been repeated: Open Society Georgia Foundation (US\$2.6 million) in 1998; Fund of Presidential Programs (US\$1.04 million) in 1999; and two grants to the Spanish-Georgian Humanitarian and Cultural Association Eurocontract (US\$3 million) in 2003. The Foundation Soukhumi under the study is in fifth place for grant amount. In addition, grant permission on such a large amount of food products has been issued

only three times: to the Foundation Pikali (US\$30,000) and the Foundation Sapience (US\$470,000) in 1999, and to the Foundation of the Culture of Abkhazia (2000 ton of flour) in 2000.

Conclusion and recommendations

On the basis of this analysis of deficiencies in the legislation system, the research gives recommendations for changes in the criminal and administrative codes. The valid criminal code is not effective from the standpoint of the fight against corruption. Therefore, we consider it necessary to include additional legal provisions in the criminal code in relation to corruption cases. The issue of strengthening the control on the registration and monitoring of foundations should be considered at the Ministry of Justice and this procedure should be brought in conformity with valid legislation. A joint information database should be developed to track the activities of courts, investigation and controlling bodies. It would be reasonable to create such database at the General Prosecutor's Office, where the data on the activities of the aforementioned agencies are accumulated.

A new normative act should be added to the Georgian administrative and procedural code by which "in case of violation of legal requirements which entails violation of the legal interests of the State, the court is obliged to request information and proves, and where it is necessary, take actions to ensure that the agency who is supposed to protect the above-mentioned interests, participates in the investigation of the case".