

**To: The Head of the Anti-Corruption Bureau
Razhden Kuprashvili**

From: Baia Patariaia, Director of the N(N)LE “Sapari”
(Address: 11a Gakhokidze St., Tbilisi, Tel: 595407428)

Response to the Letter N00013368 of the Anti-Corruption Bureau

On August 11, 2025, we received letter N00013368 from the Head of the Anti-Corruption Bureau, dated August 8, 2025. The letter, referring to the Law of Georgia On the Foreign Agents Registration Act, as well as to the Order N10 of May 31, 2025, of the Head of the Anti-Corruption Bureau, on Approval of the Rule for Administration and Enforcement of Foreign Agents Registration Act (“Enforcement Rule”), requests that we provide certain information/documents and “explanations” pursuant to Article 20 and Article 22, paragraph 1 of the said Rules.

For the reasons and legal arguments set out below, the letter of the Head of the Anti-Corruption Bureau—which apparently represents the so-called “inquiry Letter” defined by Article 22, paragraph 1 of the Enforcement Rule — is unlawful in its entirety, including the part containing the demand, and therefore we have no obligation to comply with it.

Nevertheless, for the awareness of the Head of the Anti-Corruption Bureau and also to inform the public, we consider it necessary to make the following clarifications regarding the fact that the Head of the Anti-Corruption Bureau is acting ultra vires in the process of arbitrary interpretation and application of the law.

Our organization serves our country and its people and scrupulously upholds the Constitution of Georgia and the legislation consistent with the Constitution and the fundamental rights and freedoms enshrined in international human rights law.

1. An administrative body may exercise its powers only on the basis of law, which is violated in this case

1.1. The hierarchy of normative acts and the principle of legality

The Organic Law of Georgia “On Normative Acts,” Article 7, paragraph 3 establishes the hierarchy of normative acts.

Article 7, paragraph 7 stipulates: *“Legislative acts of Georgia have superior legal force over secondary normative acts of Georgia.”*

Article 7(9) further provides: *“Unless otherwise provided by this Law, a secondary normative act may be adopted (issued) by the issuing authority (official) only within the scope of its competence, solely for the purpose of executing a legislative act, and only if this is directly prescribed by the legislative act. The secondary normative act must indicate the legislative act on the basis of which and for the enforcement of which it was adopted (issued).”*

Similarly, under Article 5 of the General Administrative Code of Georgia (“Exercise of authority on the basis of law”):

1. An administrative body has no right to take any action contrary to the requirements of law .
2. The issuance of an administrative-legal act or any other action by an administrative body which restricts rights or freedoms granted by the Constitution of Georgia is permissible only on the basis of powers granted by law or a secondary legal act issued pursuant to the law, in accordance with Chapter Two of the Constitution of Georgia.
3. An administrative-legal act issued ultra vires, as well as any action taken by an administrative body beyond its competence, has no legal force and must be invalidated.
4. Failure by officials of an administrative body to duly fulfill their official duties or exceeding official powers by them entails liability under the law.

1.2. Illegality of the Secondary Normative Act Issued by the Head of the Anti-Corruption Bureau and the Actions Taken on its Basis

a) The Law on Foreign Agents Registration Act does not grant the power to issue an “inquiry letter.”

The aforementioned “inquiry letter” is illegal, as neither the Foreign Agents Registration Act, nor any other legislative act of Georgia provides for the power of the Head of the Anti-Corruption Bureau to send such

letters to any person and to demand their provision of information/documents and explanations, demanded by the “inquiry letter”.

b) The Foreign Agents Registration Act also does not provide legal basis for the procedure of so-called “inspection”

The term “inspection” indicated in the “inquiry letter” lacks any legal basis. The Head of the Anti-Corruption Bureau granted himself the authority to conduct an “inspection” procedure under the Enforcement Rule that he adopted himself; however, such a procedure is not recognized by the Law on the Foreign Agents Registration Act. Article 4, paragraph 3 of the said law refers only to the term “monitoring,” the procedure for which is provided in Article 6 of the same law. Yet, Article 4, paragraph 3 and Article 6 grant the authority to carry out monitoring to the Head of the Anti-Corruption Bureau only with respect to a person who has submitted a registration application to the Bureau. The Head of the Bureau does not have the authority to conduct such monitoring in relation to a person who has not submitted a registration application, as in the present case with Sapari.

c) Other powers the Head of the Anti-Corruption Bureau has granted himself

Since the “inspection” mechanism itself lacks a legal basis, it is evident that any “inspection report” prepared as a result of such a procedure is also unlawful. On the basis of such an unlawful report, neither the existence nor the absence of a violation can be established, and, moreover, such an unlawful report cannot serve as ground for the Anti-Corruption Bureau to initiate “registration proceedings,” which the Law on the Foreign Agents Registration Act likewise does not provide for.

In the context of the Law on the Foreign Agents Registration Act, the law does not grant the Anti-Corruption Bureau any of the separate components of “inspection”, such as “requesting information” from a person, sending an “inquiry letter,” “questioning/interrogating a person before a magistrate judge,” or “carrying out other relevant measures provided by law,” which the Head of the Anti-Corruption Bureau has conferred upon himself under Article 21, paragraph 2 of his Enforcement Rule.

The Head of the Anti-Corruption Bureau has also unjustifiably granted himself the authority to apply to the court with a motion for the imposition of a “seizure” (see Article 22, paragraph 2 of the Enforcement Rule). The term “seizure,” or any equivalent of it, is not mentioned in the Law on the Foreign Agents Registration Act.

1.3. Conclusion Regarding the Legality of the Acts Carried Out

In the present case, both circumstances listed by Article 5, paragraphs 1 and 2 of the General Administrative Code of Georgia are present:

- a) The action of the Head of the Anti-Corruption Bureau—sending our organization a so-called “inquiry letter” and demanding information and documentation—was carried out in violation of the law, namely, the requirements of the Law on the Foreign Agents Registration Act;
- b) The above-mentioned action of the Head of the Anti-Corruption Bureau results in the restriction of rights guaranteed by Articles 22, 17 and 15 of the Constitution of Georgia and Articles 8, 10 and 11 of the European Convention on Human Rights, such as freedom of association, freedom of expression, and the right to privacy, Such restrictions, under the respective provisions of the Constitution and the Convention, are permissible only if prescribed by law to pursue any of the legitimate aims enumerated therein, and through measures “necessary in a democratic society,” none of which is met in the present case.

According to Article 60, paragraph 1 of the General Administrative Code of Georgia, an administrative-legal act, including a normative act, is void if it contradicts the law or if other legislative requirements regarding its preparation or issuance have been substantially violated.

Accordingly, given that Order N10 of May 31, 2025, issued by the Head of the Anti-Corruption Bureau, was not adopted on the basis of a legislative act—specifically, the Law of Georgia on Foreign Agents Registration Act —and is therefore in conflict with the Law of Georgia on Normative Acts and with the General Administrative Code of Georgia, any action carried out on the basis of this order is unlawful and has no legal force.

1.4. Illegality of the Future, Expected Decisions and Actions of the Head of Anti-Corruption Bureau

Since the Head of the Anti-Corruption Bureau cites Article 22, paragraph 1 of his own Enforcement Rule as the basis for the “inquiry letter,” it could be assumed that, in accordance with paragraphs 2–4 of the Article 22 of the same illegal Act, the next steps would involve application to the court to request certain measures against us, as well as preparing a so-called “inspection report” and, on that basis, initiating a so-called “registration proceedings.”

As it was already noted above, the Law on the Foreign Agents Registration Act does not provide for the institution of “inspection” at all. Accordingly, the Head of the Anti-Corruption Bureau has

arbitrarily conferred upon himself an exceptionally strong power of administrative pressure, which has no legal basis.

In view of the foregoing, we urge you to refrain from taking those potential subsequent measures against our organization, the authority for which you have arbitrarily granted to yourself.

2. The Law on the Foreign Agents Registration Act does not apply to Sapari

Our organization cannot fall under the scope of this Law because in our case the conditions of Article 1, subparagraph “c” of the Law on Foreign Agents Registration Act are not met.

Our organization serves only the interests of the Georgian people and is governed according to its statute by its director and the steering committee.

The Organization has had concluded grant agreements with the international donors, however, none of these contracts show that Sapari is involved with the donors enlisted in Article 1, paragraph “c.a” of the Law on the Foreign Agents Registration Act.

The Steering Committee is the highest governing body of Sapari, which determines the work of Sapari in view of its mission and tasks. The Steering Committee consists of Georgian members, who are citizens of Georgia and have expertise in human rights and gender studies.

Sapari is a Georgian non-profit legal entity, whose mission is to support the creation of an equal, non-discriminatory, and non-violent environment in Georgia through the empowerment of women. (This is stated in the Statute of Sapari, which is registered in the Public Registry). Accordingly, Sapari protects the rights of women and children, promotes participatory democracy and justice, provides over 1,000 legal consultations annually, handles on average 500 cases in civil, administrative, and criminal law, conducts research, and fosters education to make Georgia a country free from discrimination, where human rights will be protected. At the same time, our donors state explicitly regarding the activities of Sapari, that our research and evaluations do not reflect their position (see the description of any research published on Sapari’s website and of any product posted on any social media channel and/or at the end of videos).

It is important to note that the U.S. Foreign Agents Registration Act (FARA) does not apply to this kind of activities of the civil society.

On the American FARA website, which according to representatives of the "Georgian Dream" Government the "Foreign Agents Registration Act" represents a copy of, there is available an explanatory memorandum of the U.S. Department of Justice entitled "The Scope of Agency under FARA." <https://www.justice.gov/nsd-fara/page/file/1279836/dl?inline>

In this explanatory memorandum it is stated: "FARA's purpose is not to restrict the free speech, but to identify speech that is (fairly) attributable to a foreign principal, so that when evaluating the message, the American audience can take into account the source of the information. As the Court of Appeals for the District of Columbia Circuit noted, 'Congress was especially concerned that the registration requirement not be used to stifle internal debate on the political issues among the citizens who may sympathize with foreign views but who are not subject to the direction or control of a foreign party.' (Attorney Gen. of U.S. v. Irish People, Inc., 796 F.2d 520, 524 (D.C. Cir. 1986)); see also (H.R. Rep. No. 89-1470, p. 6 (1966)) (rejecting the attempt to have [FARA's] regulation apply to persons who are not in fact representatives of foreign states, although their actions may incidentally benefit the interests of foreign countries — under conditions when these actions represent the ordinary exercise of their rights of speech, petition, or assembly). FARA does not require registration merely because a person expresses an opinion that favors or coincides with the interests of a foreign country or a foreign person. [The very First Amendment to the U.S. Constitution protects the right of U.S. citizens to express such opinions]."

"Ultimately, under FARA, the test for agency is whether it is fair to conclude that the person is not acting independently, is not merely expressing his or her own views, but is acting as an agent or alter ego of a foreign principal."

In the context of this clear and explicit explanation, it is irrelevant that as factual grounds for the "inquiry letter" of the Head of the Anti-Corruption Bureau the links listed in Annex No. 1 are cited, which in one case reflects a statement of our organization, and in other cases provides the reasoning of an individual.

Based on the cited explanations of the U.S. Department of Justice, it is evident that the statements disseminated through the media by the Director of Sapari, in which she evaluates the global historical context or the functioning of the principles of democracy and the rule of law in the country, are made within the scope of freedom of expression and cannot be considered as representing the interests of any foreign principal merely because others, including a donor

organization, may share similar views on democracy and the rule of law. Two of these assessments criticize the “Georgian Dream” party, and it means that because of the criticism of the ruling party and evaluation of its actions as anti-democratic and contrary to human rights by an individual (in this case, by Baia Pataraiia), legal proceedings are being conducted against the organization (Annex No. 1, Link No. 1 and No. 2).

The freedoms of expression and assembly, as well as other constitutional rights, cannot be taken away from our organization and its employees by anyone, including the Head of the Anti-Corruption Bureau through his unlawful decisions and conclusions.

It should be noted that according to the Recommendation of the Committee of Ministers of the Council of Europe of 10 October 2007 (CM/Rec (2007)14), “Non-governmental organizations should be free to carry out research, education and advocacy on issues of public debate, regardless of whether their position coincides with government policy or requires a change in the law.” According to Principle 31 of the OSCE/ODIHR and the Venice Commission Guidelines on Freedom of Association: “Associations should enjoy the right to freedom of expression and opinion within the framework of their objectives and activities. This is in addition to the individual right to freedom of opinion and expression of the members of associations. Associations should also have the right to participate in political and public debate, regardless of whether their position coincides with the government policy or requires a change in the law.” According to the assessment of the Council of Europe Commissioner for Human Rights, “Applying the law to those civil society groups that initiate changes in laws and practices, or to those groups that monitor the compliance of public authorities’ decisions, actions and policies with human rights, significantly undermines their role in a democratic society as enforcers of public accountability.” [2] para. 23, available at: <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680731087>

In your letter, participation of Baia Pataraiia in a show of TV Pirveli is provided as the proof of the political activity, on the basis of which the Bureau, initiated the inspection of Sapari under Article 20, paragraph 1 of the Order of the Head of the Anti-Corruption Bureau of 10 May 2025 on Approval of the Rule for the Administration and Enforcement of the Foreign Agents Registration Act.

It is unequivocal that in the mentioned videos **Baia Pataraiia clearly states that she is expressing her own opinion, which is her right recognized by the Constitution of Georgia**

(Article 17) and the European Convention on Human Rights (Article 10). Sapari respects the freedom of opinion and expression of its employees and does not impose censorship on them.

Moreover, as a free association of individuals founded on respect for human rights, Sapari does not itself bear responsibility for the freedom of expression of its employees, especially for the absolute right that protects opinions. Accordingly, these videos cannot be considered to tell anything about Sapari and cannot be evaluated as relevant evidence for any type of inspection related to the organization.

We also inform you that Sapari does not act as a “public relations advisor,” “advertising agent,” “information office employee,” or “political consultant” of any foreign principal, including any donor.

Our organization has never given anyone consent, has never expressed will, and has never allowed itself to act as an agent of any foreign principal or donor.

In view of all the above, we once again emphasize that the Foreign Agents Registration Act does not apply to Sapari and it has no obligation to submit an application for registration as an “agent of a foreign principal.”

3. On the “destruction of evidence”

On June 18 and 30, 2025, the joint statement of non-governmental organizations was assessed by the Bureau as “failure to comply with a court order” and “destruction of evidence,” which is related either to problems with understanding of what was read or heard, or to a dishonest interpretation, which, once again, indicates the Bureau’s bias in the administrative proceedings.

In the briefings, the links to which are provided in the Bureau’s letter, it was stated that information about non-governmental organizations was already public, and that the sources of information would be additionally provided to the Bureau. The fact that the aforementioned information was provided by Sapari to the Bureau in its letter dated July 3, 2025, excludes *per se* the possibility of non-compliance with a court order.

It should be noted that none of the videos linked in the letter contain any discussion of the “destruction” of any type of “evidence,” and it is unclear where such a formulation appeared from

in the Bureau's letter. Evidence, by its nature, implies information that confirms any type of argument relevant to any case. It is noteworthy that Sapari is not aware of any case within which confirmation of any argument is required.

Regarding internal organizational documentation, including the personal data that the organization may process, such processing is carried out in accordance with the Law on the Protection of Personal Data and the organization's internal regulations, which, among other things, entails the periodic destruction of such data when it is no longer needed. An organization that has existed for over 24 years cannot retain all the information accumulated during that time, nor is this permitted by law. On this matter, please refer to the definition of data processing in Article 3(f) of the Law of Georgia on the Protection of Personal Data: "Data processing – any action performed on data, including its collection, acquisition, access, photographing, video monitoring and/or audio monitoring, organization, grouping, interrelation, storage, modification, restoration, retrieval, use, **blocking, deletion, or destruction**, as well as the disclosure of data by transmission, publication, dissemination, or otherwise making it accessible;" and according to Article 4.1(e) of the same law, **"Data may only be stored for the period necessary to achieve the legitimate purpose of data processing. After achieving the purpose for which the data is processed, they must be deleted or destroyed."**

Additionally, when requesting information from Sapari, please take into account the Decision of the United Nations Committee on the Rights of the Child of July 17, 2025 (REFERENCE: G/SO CRC-IC GEO (5), AB/YG/MG 263/2025) regarding the application of interim measures and act in accordance with Georgia's international obligations and legislation, without exceeding your powers.

Director of Sapari

Baia Pataraia