

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Submitted to the Parliament its Opinion on Pending Amendments to the Code of Administrative Offences

The parliament of Georgia is considering a draft of amendments to the Code of Administrative Offences of Georgia. GYLA has submitted its written opinion on the following two Articles of the proposed draft:

Since the Soviet times, Article 171 has been prescribing administrative liability for being in public under the influence of alcohol or in a condition that offends human dignity and public moral. In the proposed formulation “under the influence of alcohol” has been deleted. GYLA believes that both the original formulation that dates back to

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1984 and the proposed draft currently under consideration of the parliament are ambiguous, contradicting the principle of legal state in which law should stipulate actions allowed or prohibited in a clear and foreseeable manner; both existing and proposed formulation of Article 171 fail to do so. It provides a broad discretion for law enforcement authorities to decide what constitutes immoral behavior and apply restrictive measures against an individual concerned. Considering that offensive harassment, using a bad language and other similar actions are already qualified as violation, leaving an ambiguous stipulation in the law would be unjustified.

Another provision of the Code of Administrative Offences addressed by GYLA's legal opinion is Article 173, in which initiators of the draft law have inserted the following: "verbal abuse of law enforcement authorities and perpetrating abusive actions against them (except for verbal abuse)". Further, the proposed draft increases the amount of applicable fine from GEL 500 to GEL 2000.

Since 2004 Article 173 has been utilized as "effective" means for curtailing the right to assembly and expression, mostly against protesters and rally participants used by the law enforcement authorities. Clearly, Code of Administrative Offences does not envisage any effective procedural means of defense. While both applicable laws and court practice fail to ensure protection of the right to a fair trial in administrative proceedings, GYLA is categorically against introducing any amendments to the Code of Administrative Offences that establishes or aggravates liability.

Therefore, GYLA urges the parliament of Georgia to remove the following from Article 171 of the Code: "being in a condition that offends human dignity and public moral" and not to amend Article 173 or to increase the amount of fine envisaged for disobeying orders of law enforcement authorities.