

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## **GYLA presented written observations to the parliament on the initiated draft law on consumption of Marijuana and Cannabis**

GYLA has submitted written observations to the Parliament of Georgia on the draft laws that are prepared with the Ministry of Internal Affairs` (MIA) authorship and initiated by the Government of Georgia.

According to the draft laws, the administrative liability is imposed on illegal acquisition, maintenance, transportation or/and transferring of marijuana, including the consumption of the small amount of cannabis or marijuana in the places or

conditions prescribed by the same Code. The package mentioned specifies the issues of civil rights deprivation and the criminal liability for consuming the small amount of cannabis or marijuana.

GYLA, on the one hand, welcomes the attempt to bring the Georgian legislation in compliance with the Constitutional Court`s decision made on July 30, 2018, however, we believe **that certain parts of norms are unconstitutional, due to their unpredictability and ambiguity, and individual parts of norms are not in compliance with the conclusion of the Constitutional Court that was made on July 30, 2018:**

- **Under circumstances where the acting legislation or the draft law do not consider the legal basis for legal acquisition, maintenance, transportation or transferring of cannabis that are preconditions for consumption, the content of the norm is vague and the consequence of an action is □ unpredictable. Due to the above mentioned, the draft law should take into consideration the grounds for legal acquisition, maintenance, transportation and transferring of cannabis or marijuana;**
- **The law excludes the possibility of purchasing the small amount of marijuana in any forms and claims it being completely illegal, and therefore a person is forced to undergo an illegal procedure to enjoy with the right guaranteed by the constitution, which implicitly implies the punishment for marijuana consumption;**
- **By the draft law, imposing the liability on juvenile for the action which is not punishable in case of an adult, is unjustified;**
- **We should not exclude cases where a person consumed marijuana in the absence of a minor, thus because of objective reasons, to their unwittingly, they were found to be under the influence of drugs in the presence of a minor. In such circumstance, it is inadmissible to keep a person responsible for the action that did not come to their fault;**

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- **Direct imposing of tobacco-like regulations on marijuana and cannabis is unreasonable, since the establishment may not have an appropriate competence to determine what the person is under the influence of. It is also unclear what is meant by taking appropriate measures;**
- **Allowing the possibility of depriving civil rights on the case of administrative offence, while consuming cannabis or marijuana, contradicts the decision of the Constitutional Court of Georgia;**
- **The increase of the limit from 18 to 21 years, as prescribed in Part 3 of Article 272 of the Criminal Code, requires additional substantiations and reasoning whether is it derived from the decision of the Constitutional Court of Georgia, or is it in compliance with the applicable Georgian legislation;**
- **The responsibility for driving mechanical transport under the influence of cannabis or marijuana, should be determined in the same way, while driving under the influence of alcohol.**

GYLA addresses to the parliament, to take into consideration the observations and notes laid down in the conclusion, when discussing the proposed draft law.