

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



The draft of the decision initiated by the Mayor of Tbilisi comes into conflict with the legislation and Constitution of Georgia

Today Tbilisi City Council will consider the draft decision initiated by the Mayor of Tbilisi. According to paragraph 2 of the draft monthly fee for waste collection services will be tied to electricity bills and each household will have to pay 0.05 GEL for each kilowatt of electricity consumed.

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The provision contradicts with the “the Law on Local Fees”. Article 12 Paragraph 4 of the Law states that “**fee for waste management service per family member should not exceed GEL 3 per month**”. The new proposed method of calculating fee will, however, lead to a situation wherein some households will have to pay more than GEL 3 per family member and therefore requirements of the “Law on Local Fees” will be violated.

Furthermore, the submitted method of identifying the fee contains no information on the waste and is linked to the amount of consumed electricity by each household monthly, which has no causative link to waste collection.

In “*Shalva Natelashvili and Akaki Mikadze vs. Georgian National Energy and Water Supply Regulatory Commission*” the Constitutional Court of Georgia in its judgment of February 9 2007 ruled that customers’ rights are protected under Article 30, Paragraph 2 of the Constitution. The Constitutional Court held that “the legislator is obliged to investigate all the relevant circumstances and clearly define the content of the restrictive clauses if by adopting the normative act, restrictions (even temporary) are imposed on exercise of the right and special conditions are being introduced.”

It is unclear what were the circumstances that instigated the City Council to making such decision and to connecting the waste collection fee to the consumed electricity. This norm is not well reasoned and can be treated as violation of customers’ rights as per Article 30, Paragraph 2 of the Constitution.

Therefore, considered draft contradicts with requirements of the applicable legislation as well as with the Constitution of Georgia and its adoption is impermissible. We appeal the members of the City Council to refrain from making such a decision.