

A photograph of a wooden gavel and a metal scale of justice in a library setting. A white rectangular box is overlaid on the image, containing text in Georgian.

საია საზოგადოებრივი ჯანდაცვის შესახებ
კანონში შეტანილ ცვლილებებს
საკონსტიტუციო სასამართლოში
ასაჩივრებს

GYLA makes an appeal on the amendments to the Law of Georgia on Public Health to the Constitutional Court

Unfortunately, the Parliament of Georgia did not share the call of a number of organizations, including GYLA, not to make any initiated changes to the Law of Georgia on Public Health and today the bill was supported in the third hearing. Accordingly, GYLA has decided to appeal the entered amendments to the Constitutional Court.

According to the disputed norms, the Parliament of Georgia delegates authority to the Government of Georgia. Based on the delegated authority, the Government of Georgia or the Ministry designated by the Government shall be authorized to determine quarantine measures. For its part, quarantine measures include different regulations governing freedom of movement, property rights, labor rights, and entrepreneurial rights. Accordingly, the Government of Georgia is authorized to restrict the above-mentioned rights by a subordinate legal act issued by it.

According to the practice of the Constitutional Court of Georgia, the restrictive norm must comply with the Constitution of Georgia both in terms of content and formality. However, according to the practice of the Constitutional Court of Georgia, the delegation of authority by the Parliament may violate the Constitution in cases where it is directly prohibited by the Constitution of Georgia [...] and/or when it is determined that by delegating certain powers the Parliament of Georgia refuses to exercise its constitutional authority.

According to Article 14 point (2) of the Constitution of Georgia (freedom of movement), "restriction of these rights is allowed only in accordance with the law", and in accordance with Article 26, point 1 (freedom of labor) of the Constitution of Georgia, "labor rights are protected by the organic law." Thus, the Constitution allows the restriction of freedom of movement only by law, therefore, the restriction of this right by a subordinate legal normative act of the Government is inadmissible. Also, restriction of labor rights is allowed only by organic law.

GYLA considers that the entered amendments are unconstitutional with respect to property rights also. The government may impose only technical regulations on property rights. It cannot be considered to be a technical regulation, for example such a ban which according to the entered amendments, restricts the hotel owners from renting out rooms. This is a complete ban on the use of property rights and not a technical regulation. A total ban on property rights, such as the closure of hotels and clothing stores or a ban on the resumption of work needs to be legitimized by Parliament. In this particular case, the possibility of taking such drastic measures is transferred entirely in the hands of the government, which violates the right to property.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION

