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## **GYLA has addressed the Council of Europe Committee of Ministers with Written Communication on Sarishvili-Bolkvadze Case**

On December 1st, 2020, GYLA submitted a written opinion on the *Sarishvili-Bolkvadze v. Georgia case* to the Committee of Ministers of the Council of Europe, in which it assesses the measures taken by the Georgian authorities as a general measure.

The Committee of Ministers has been overseeing the execution of *Sarishvili-Bolkvadze case* since October 19th, 2018. The case concerns the death of a patient as a result of improper treatment in a private medical institution and refusal to award non-pecuniary damage to the family member of the deceased through civil proceedings. In this case, the Judgment of the European Court of Human Rights of 19th July 2018 found that there has been a violation of Article 2 (right to life) of the European Convention on Human Rights.

In the submitted written opinions, GYLA focuses on several issues that require

additional measures to be taken by the state. In particular:

**The issue of awarding compensation for non-pecuniary damage caused by the death of a next-of-kin** - as of today, the law still does not grant a next-of-kin of the deceased the right to claim compensation for non-pecuniary damage caused by the death of the victim. In the absence of proper legislative regulation, litigation in court is complicated and less accessible to the next-of-kins.

**Possibility of resumption/reopening of administrative dispute on the basis of a Judgment of the European Court** - the Code of Administrative Procedure establishes a special regulation on the resumption of administrative cases on the basis of a Judgment of the European Court and directly prohibits the resumption of a case in case of violation of the right to a specific case have been found by the European Court. In many cases, the re-examination of a case or a reopening of proceedings has proved most efficient, if not the only means of achieving restitutio in integrum to properly enforce a European Court Judgment. Accordingly, the existing regulation in the Code of Administrative Procedure needs to be amended and refined, which would allow the party to request a re-examination of the case of the administrative dispute for the cases provided by law.

**Deficiencies in the activities of the State Regulation Agency for Medical Activities** - the mentioned agency carries out the quality control over the medical care provided to patients in private medical institutions. An important challenge in terms of the Agency's activities is the fact that the quality control of medical care is carried out only on the basis of referrals from individual persons and investigative bodies. The Agency does not carry out these activities proactively, on its own initiative. Under these conditions, the agency cannot be considered as an effective mechanism to ensure adequate protection of patients' lives and health.

GYLA submitted a detailed analysis of the above problematic issues to the Committee of Ministers along with the relevant recommendations. The implementation of these measures by the state will ensure the proper and effective execution of the *Sarishvili-Bolkvadze case* and will also help to prevent similar violations in the future.