



გარემოს დაცვისა და სოფლის მეურნეობის  
სამინისტრო საიას დისკრედიტაციას ცდილობს და  
საზოგადოება მიზანმიმართულად შეყავს  
შეცდომაში

## MINISTRY OF ENVIRONMENTAL PROTECTION AND AGRICULTURE TRIES TO DISCREDIT GYLA AND DELIBERATELY MISLEADS THE PUBLIC

On May 18, 2020, the Ministry of Environmental Protection and Agriculture stated the GYLA's constitutional lawsuit. The statement contains essentially erroneous, mutually exclusive facts and is an attempt to discredit GYLA and deliberately misleads the public.

GYLA filed a lawsuit against the Georgian government in the Constitutional Court on April 14, 2020. In its lawsuit, GYLA argued that the suspension of public hearings on the proceedings initiated for the scoping conclusion and the issuance of an environmental decision under the Environmental Assessment Code based on Ordinance of the Government of Georgia N181 of March 23, 2020, was contrary to the formal criteria of the right protected by Article 29 of the Constitution of Georgia. In particular, Article 29 of the Constitution may be restricted only by law and not by the Ordinance of the Government. Accordingly, GYLA demanded that the relevant article

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of the Ordinance of the Government be declared unconstitutional.

On April 30, 2020, the Constitutional Court of Georgia did not accept the complaint of GYLA for consideration on the merits. According to the court, it is true that the impugned norm has limited the possibility of oral participation in decisions on environmental issues, however, to have on the hands interference with the right protected by Article 29(1) of the Constitution, the plaintiff also had to substantiate why the submission of opinions in writing and/or by electronic means was not an effective form of participation in environmental decisions.

A statement issued by the ministry said that the Constitutional Court had not satisfied the claim of GYLA against the Ministry of Environmental Protection and Agriculture. While the defendant was not the ministry but the government. The statement also said that the reason of the restriction of the impugned norm was a pandemic in the country, "while in case of the need to protect the social distance during the pandemic, it is not possible to hold public hearings ..." however, GYLA did not dispute the proportionality of the restriction established by the impugned norm. GYLA in this lawsuit argued that the impugned norm should have been restricted in its proper form (by law and not by the Ordinance of the Government) and that the violation of the formal rule of restriction should have been the basis for recognition of the restrictive rule as unconstitutional. The statement also said that GYLA was spreading defamatory statements through the media and social networks, however, it does not indicate what the defamation was about, especially towards the Ministry of Environmental Protection and Agriculture, which was not even involved in the case as a defendant. In the media and social networks, GYLA was arguing the arguments presented in the lawsuit, promoting a healthy discussion on the issue, which is not defamation.

As for the ruling of the Constitutional Court, GYLA does not agree with it and considers that the Constitutional Court has narrowly defined the right protected by Article 29(1) of the Constitution of Georgia, which led to the refusal to admit the lawsuit. According to the 4th sentence of Article 29(1) of the Constitution of Georgia, the right to participate in decision-making related to environmental issues is provided by law. Indeed, the Constitution of Georgia does not directly define the form of participation, but it does oblige the legislator to determine the form.

The Environmental Assessment Code defines three forms of participation in environmental decision-making: 1. Oral; 2. in writing; 3. Electronic. According to the

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Ordinance of the Government, one of these forms - the right to participate orally - has been restricted. GYLA believes that in the current case when assessing the Constitutional Court of Georgia whether the impugned norm caused interference with the right the Article 29 of the Constitution should have been widely interpreted and under the impugned norm, the restriction of the right to participate in environmental decisions shall be deemed to be an interference with Article 29. Indeed, the Constitution of Georgia does not explicitly guarantee the participation of a person in decision-making in environmental issues with the most acceptable form, however, the purpose of defining the Constitution should always be the assessment from the position of protection of human rights, especially when there is a legislative basis for this definition.

GYLA hopes that the Ministry of Environmental Protection and Agriculture will correct the erroneous facts presented in the public statement and it no longer considers defamatory critics of the activities of the government or the ministry and/or the public hearing on impugned norms appealed to the Constitutional Court in the future.