



Georgian Young Lawyers' Association and "Tiflis Hamkari" assess negatively initiated legislative amendments on removal of the status to the historic monuments

Georgian Young Lawyers' Association and "Tiflis Hamkari" assess negatively legislative initiative submitted by the government of Georgia to the Parliament introducing amendment to the Law on Cultural Heritage and altering significantly the applicable regulation on removal of the monument status.

As it is known to public, according to Article 17 of the Law of Georgia on Cultural Heritage cancellation of a status shall be admissible only on the basis of a relevant opinion and if the listed property in question has obliterated or damaged to such a degree that has lost its historical or cultural value and cannot be restored, or if judging by scientific (methodological) criteria it has lost features for which it had been granted a monument status.

According to the initiated draft, the second paragraph should be added to the law, according to which - In exceptional situations, in case of state importance, cancellation of the monument status (save for the monuments with national categories or/and those included in the list of world heritage) is admissible upon agreement with the Ministry by submission of the agency authorized to initiate draft legal act before the government of Georgia, on the basis of the government resolution.

We think that the mentioned legislative amendment on the one hand significantly diminishes legislative force of the norm on cancellation of the status, while on the other hand contains serious risk and may lead to fatal outcomes in terms of cultural heritage, namely:

- The initiated legislative amendment does not specify what is meant by “exceptional situation”. The fact contains high risk of bias in decision making process and any specific case may be reviewed as “exceptional condition”.
- It is unknown what is meant under “the necessity of state importance” and what will be the form and criteria of assessing each concrete case, as the necessity of state importance. Introduction of such vague norms shall be considered as the step backward in law drafting process.
- Applicable Article 17 of the Law on Cultural Heritage already establishes pre-conditions for cancellation of the status of the monument, therefore existing provision can be recognized as combination of “exceptional conditions”.
- The aim of the law on cultural heritage is protection of cultural heritage, while the initiated amendment comes in conflict with the nature of the law and is not linked to protection of cultural heritage.
- The fact that initiated legislative amendment will not apply either to the national category monuments and/or to those monuments included in the list of world heritage cannot be enough since if the status of the monument is altered, the monuments which previously had different and protective status may also be jeopardized.

We would like to highlight that the author of the initiated amendment is the Ministry of Economy and Sustainable Development of Georgia. Obviously, the fact generates doubts on concrete economic interests beyond the amendment. Furthermore, the opinion is reinforced with the explanatory letter of the draft naming “certain instances” as basis for adopting the draft. Moreover, preparation of the legislative initiative was not open and was implemented without participation of experienced experts and specialist of the field.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



Accordingly, no positive expert opinion is available.

We opine, that state's key objective in terms of cultural heritage, should be its effective protection, rather than introduction of legislative norms which might lead to incurable results, especially when there are already number of problematic norms containing serious risks concerning protection of cultural heritage.

Moreover, we would like to remind the government that for the past years number of high cultural value monuments have been destroyed under the name of rehabilitation/reconstruction by spending thousands of million GEL. In parallel, other monuments were modified significantly. If the initiated legislative amendment is adopted, the same activities may be carried out within the scope of legislation.

In view of above, the undersigned organizations urge the Parliament of Georgia to leave unchanged the applicable provision on cancellation of the status to the monument envisaged by the Law of Georgia on Cultural Heritage and to refrain from adopting the initiated legislative amendment which allows cancellation of monument status in so called "exceptional conditions" and "necessities of state importance."