

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Disapproves Subjecting of Government's Decision-Making Procedures to Regulations Adopted by the Government

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA responds to the legal draft initiated in the parliament on amendments to the law of Georgia on Structure, Authority and Rules of Operation of the Government, which in GYLA's opinion constitutes as a step towards weakening parliamentary control on the Government.

The proposed draft removes paragraphs 22, 4 and 7 from Article 12 of the law. These norms regulate matters related to initiating an issue for examining during the session of the government, rules related to examining and deciding on issues by the government and number of votes necessary for making decisions. Under paragraph 7, Article 12 of the law, Government is authorized to examine issues if more than half of the members of the government are present at the session. Government makes decisions by majority of votes of members in attendance.

Under the proposed new regulations, the procedure for making decisions by the government will be determined by regulations as opposed to a legal act. These regulations will be proposed by PM and adopted by the Government. Hence, the draft law strips parliament of the right to regulate procedures of government's decision-making. Instead, these procedures will be determined independently by the government and PM.

Under Article 48 of the Constitution of Georgia, control of the government is one of the key functions of the parliament. Parliament's effective control of the government is an important condition for striking a balance between different branches of the authority and the most important feature of parliamentary democracy. In view of the fact that the existing Constitution envisages scarce mechanisms for parliamentary control on the government, proposed regulations will further diminish parliament's role to control government's activities by means of determining the decision-making procedures.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Further, it raises certain questions in terms of its compatibility with the Constitution of Georgia. Under paragraph 5, Article 78 of the Constitution, rules of operation of the government are determined by the Constitution and law. Government's session, which aims at making of a certain decision, is one of the fundamental forms of the government's work (if not the only one). Therefore, subjecting of procedures for holding the session to Regulations of the Government instead of a law adopted by the parliament may conflict with the constitutional provision.

In this light, GYLA believes that adoption of the legal draft will weaken parliamentary control on the executive authorities. Therefore, it calls on the parliament to refrain from adoption of legal regulations that will fail to facilitate due realization of parliamentary control.