

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Part of pending amendments to the Law on “Assembly and Manifestation” contradict with the Constitutional Court decision

On June 13, Members of the Parliament of Georgia initiated a draft envisaging significant revision of the Law of Georgia on Assembly and Manifestation. It should be noted that the submitted draft contains unclear provisions as well as contains potential risks of human rights' violation.

Firstly, we should emphasize the conflict between the draft and the Constitutional Court decision of April 18, 2011 that invalidated certain provisions of the Law of Georgia on “Assembly and Manifestation” including the provision with blanket rule imposing limitation on organization of assemblies to the individuals who have no Georgian citizenship and the statement which deprived one person of the right to be the initiator of the Assembly and Manifestation. The Article of the draft imposing 20 meters radius principle with regard to certain buildings

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partially contradicts with the Constitutional Court decision. We consider that the suggested formulation in a blanket restriction and in the process of regulating assemblies and manifestations the attention should be paid on restrictions to block the entrances rather than on formal radius.

Introducing back partially or completely the norms that were considered by the Constitutional Court unconstitutional shall be considered as absolute ignorance of the significance of Constitutional justice, that is unforgivable.

Moreover, the draft entails some unclear and potentially dangerous provisions, including the one stating that *“relevant agencies are obliged to keep balance between the right to Assembly and the right of individuals who live, work, trade or have small business where the rally takes place.”* The provision is vague and does not specify whom the obligation is addressed to. The draft continues that with a view to keep the balance *“the state agency may limit the period and location of the assembly and suggest the alternative”*. It is evident that imposition of limit on the time and location of the assembly and manifestation is intervention in the exercise of right to Assembly and Manifestation. In order to justify this intervention constitutionally and legally the limitation should be specific, definite and clear in law. Furthermore, the draft imposes 15 minutes term and within this period organizer should react on the application of the warning of the authorized person. It is unclear whether this period is given to the organizers to make reaction or the legislator imposes 15 minutes for eradication of the gap (for example for restoring transport movement). If the 15 minutes period envisaged by the draft concerns restoring of the transport movement or eradication of other gaps reasonability of the term shall be stated. Despite the mentioned provision, it is also unclear what is meant when legislator imposes restrictions on *“carrying out other abusive actions”* with regard to the historical, archeological, architectural premises and/or buildings with scientific importance.

Listed unclear and potentially dangerous provisions are not exhaustive. GYLA continues examining of the submitted draft and preparing legal opinions on topical issues of the document. We should also stress that the draft concerns fundamental human rights and freedoms, that attracts public interests even more to the parliamentary discussions. In view of the above, it is important if the Parliament examines the draft in reasonable terms and ensures participation of each interested party in the process. Furthermore, we appeal the members of the Parliament to reveal intelligence and consider the Constitutional Court decision during the debates on the initiated amendments.