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GYLA considers imposing fines on cafes and bars to be ungrounded

On June 15th, 2020, it became known to the public that the Labour Conditions Inspecting Department (LCID) had inspected various cafes and bars and fined 16 of them 10,000 GEL for violating the regulations imposed to prevent a pandemic. The practice of inspecting and imposing fines on cafes and bars continued in the following days. GYLA has studied the materials of 12 fined cafes and bar cases and is assisting them in appealing the fines imposed. The study of the Administrative Offence Reports revealed that the violation has not taken place in some cases, and in some cases, the Inspection Department imposed more obligations on public catering facilities than it was required by the recommendations. Also, in the part of the Administrative Offence Report, there are small technical errors, on which the relevant agency could have used a verbal warning instead of a fine.

It is important to note that by the order of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, there is no clear distinction between a recommendatory nature and mandatory requirements. Such regulation causes uncertainty among addressees. Moreover, in some cases the provisions, which were originally recommendatory by nature, later became

mandatory. Representatives of cafes, bars and restaurants told GYLA that the small interval between the implementation of the changes and the inspection of the facilities made it difficult to meet the new requirements in a timely manner. In many cases, the Labor Inspection Department considered the failure to submit a document certifying the conduct of a particular procedure to be a violation, while the existence of such a document in the relevant by-laws did not constitute a mandatory requirement. It is also noteworthy that in several cases the administration of catering facilities had a desire before the resumption of work, the Inspection Department to inspect their facility in advance and in case of discrepancies, appropriate advice was given to correct them. They have repeatedly appealed to the administrative body for this purpose, both electronically and by telephone, although the Inspection Department has not taken into consideration this request.

GYLA considers it important to establish and implement certain regulations for catering facilities in order to stop the spread of the pandemic, however, these regulations should be unambiguously formulated and should not allow for broad interpretation. GYLA calls on the Inspection Department to investigate all the important circumstances in the implementation of the inspection, which excludes the responsibility of the facility, and in case of detection of a small technical fault, to use the mechanism of verbal warning instead of imposing fine. The main purpose of using an administrative penalty is not to punish the subject, but to take preventive measures to prevent such misconduct in the future. [1] This approach would allow facilities to eliminate minor technical deficiencies so that they would not have to pay a high financial sanction, which is a heavy burden for penalized facilities, given the current situation.

[1] Judgment of the Tbilisi Court of Appeals of June 30, 2014 in case N4a / 485-14