



GYLA gives critical assessment to the increase of resource officers' authority in educational institutions

The Ministry of Education and Science of Georgia and the Ministry of Internal Affairs have presented for public examination a draft amendment to the Law of Georgia on General Education aimed at enhancing security system in public schools by increasing the powers and functions of the resource officer. GYLA positively evaluates the introduction of preventive measures in public schools in order to improve the security system, but it deems important that **preventive measures shall strike a reasonable balance and should not lead to improper and unjustified restriction of a child's rights**

. Given that the proposed bill grants resource officers powers similar to police control, GYLA considers it important to assess its expediency and proportionality.

GYLA deems it necessary to focus on the following issues presented in the draft amendments to the Law on General Education: **a) Superficial examination of a minor by a resource officer; b) The right to use physical force and special means by a resource officer; c) Use of the mechanism of a student's delay by a resource officer; d) Protection of a student's personal data.**

a) Superficial examination of a minor by a resource officer - according to the draft bill, "superficial examination" has replaced "personal examination" provided for in the Law of Georgia "On General Education." Although the aim of both remained the same, the scope and authority of the resource officer has increased and the standard of proof decreased.

First of all, the draft law expanded the scope of using a superficial examination which may be applied not only to a violation of the school regulations by a student, but also an "alleged offense" has been added, which is not interpreted in the draft law and is vague. In addition, the ground for superficial examination can be "a sufficient ground for assumption" and the standard of a "reasoned proof" necessary for personal examination has been reduced. In addition, superficial examination may be conducted by a resource officer of an educational institution at his/her own discretion, as well as at the request of the school administration, whereas personal examination could only be conducted under the permission or supervision of a school principal or a representative of the school administration.

b) The use of physical force and special means by a resource officer

The draft law determines the cases where the resource officer shall be allowed to use physical force and special means, including as follows: a) to prevent an offense; b) to prevent an attack of a person in an educational institution and in its adjacent territory; c) to prevent resistance against a resource officer exercising his/her official duties; d) When arresting an offender for submission him/her to the law enforcement bodies, when there is a sufficient assumption that a person may go into hiding or harm other people.

We believe that the use of physical force and special means by resource officers being prevented from exercising their official duties may not be permitted unconditionally,

and the resource officer should not have a broad authority to assess whether or not an act may lead to prevention of his/her activities. First of all, the draft law should determine what can be considered as a resistance to a resource officer. In addition, we think that a resource officer, when being prevented from exercising his / her powers, should be able to use physical force and special means **only if a person confronts physically and threatens the life and / or health of a resource officer, and not in any case when a pupil refuses to obey a resource officer** ☐
orders.

c) Use of the mechanism of a student's delay by a resource officer - the draft law provides for the mechanism of delaying a pupil/student who may have allegedly conducted a disciplinary offense, which shall mean the separation of a pupil in the presence of a representative of the school administration.

We think that the mechanism of delaying a student grants a vast discretionary power to the resource officer, and there is a risk that it may be used in practice by unreasonably restricting a child ☐ **rights** Considering the fact that the mechanism of a delay limits freedom of movement of a minor, it is important that cases of restriction of liberty, procedures and rules should be provided in details in the law rather than in a subordinate legal act adopted by the Minister of Education and Science. In addition, the draft law should take into account the legal safeguards of the minor, including, drawing up relevant protocols in case of the use of a delaying mechanism and opportunity to challenge such by a minor's representative.

c) Protection of a minor's personal data

According to the draft law, video surveillance shall be carried out in the external and internal perimeter of the category of schools which are envisaged within the procedures and terms for protection of safety and public order in educational institutions in order to protect a person from harmful influence. The video surveillance system shall be administered by a resource officer. In addition, according to the bill of law, an electronic database of offenses identified in schools shall be provided, the access to which shall be granted to the Ministry of Internal Affairs of Georgia.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



The draft law does not envisage the criteria under which the Ministry of Education and Science shall determine the category of schools to be video surveyed. Also, the draft law does not specify the type of information to be included in the electronic database and whether it will include only information about offenses, or personal data of minors as well.

Based on the above, we believe that the proposed draft law should be elaborated further by active involvement of the civil society and other stakeholders in order to significantly improve the wording of the draft law before submitting it to the Parliament of Georgia.

We hope that the authors of the draft law will take into consideration GYLA's suggestions and ensure a reasonable balance between safety and children's rights.