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Non-Governmental Organizations and Subject Matter Experts negatively assess the amendments in the "Environmental Assessment Code"

On March 17, 2022, the Parliament of Georgia supported in the third reading the bill "On Amendments to the Code of Environmental Assessment" submitted by the Legislative Initiative of the Government of Georgia (07-2/111/10; 22.12.2021).

The amendments envisaged by the bill have been repeatedly negatively assessed by civil society. They have repeatedly submitted opinions on several shortcomings in the bill, but none of the critical questions and problematic issues raised by NGOs have been adequately addressed and taken into account in the final version of the bill.

The effective and meaningful participation of civil society in this process was problematic. The promise made at the only working meeting with non-governmental organizations by the Chairperson of the Committee on Environmental Protection and Natural Resources on December 7, 2021, to hold additional meetings to discuss the changes in detail, to answer all questions and reasonable fears, as well as address the shortcomings - has been violated.

The bill provided for several substantive changes, including the most important one concerning the institutional part. Under the new regulation, the Department of Environmental Assessment within the Ministry of Environmental Protection and Agriculture will be fully transferred to the LEPL National Environmental Agency, with full authority to delegate environmental decision-making and recommendations to strategic documents. This change was not properly substantiated by the explanatory note to the bill, and similar legislation and practices of other countries were not studied and substantively analyzed. Consequently, it was not assessed how effective

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it would be to delegate environmental decision-making authority to a similar body of the National Environmental Agency, given the context of Georgia; the increased threats of corruption and conflict of interest posed by delegating similar powers to an Agency with its own commercial interests have not been assessed and analyzed. In these circumstances, empowering the LEPL National Environmental Agency to make decisions on issues directly related to the development of the country, the security of the people, and the proper enjoyment of basic human rights are means to evade political responsibility for the Ministry and should be assessed negatively.

It is also important to note that despite the promises made at the committee hearings, the opinion of civil society on the rules for amending the environmental decision was not taken into account. The organizations that signed the statement demanded that the amendments to the environmental decision should be made through public administrative proceedings and not through simple administrative proceedings. According to the bill, the Agency has been authorized to amend the environmental decision or the relevant empowering administrative-legal act issued in the field of EIA through simple administrative proceedings, if this individual-legal act stipulates the obligation to make an additional study of certain environmental elements/components and based on the results of the study, the Agency determine the need to change the condition. This is contrary to Part 2 of Article 63 of the General Administrative Code of Georgia, according to which an amendment to an administrative-legal act may be made only through the rule by which this act was originally issued. Thus, an amendment to an act issued through public administrative proceedings may be made only by the same rule. The rule of simple administrative proceedings restricts the right of a person to receive timely information on changes in an environmental decision already issued and, accordingly, to dispose of his right in a timely and proper manner to submit his reasoned opinion, as well as to challenge the exercise of authority by the administrative body. Thus, this change should also be evaluated negatively.

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Given all the above, the organizations signing the statement strongly disapprove of the amendments made to the Environmental Assessment Code. The new regulation fails to ensure the introduction of an effective system of Environmental Impact Assessment, adequate regulation to prevent, reduce and mitigate the expected environmental damage, as well as broad public involvement in environmental decision-making.

Georgian Young Lawyers Association (GYLA)

Green Alternative

Greens Movement of Georgia/ Friends of the Earth Georgia

Social Justice Center (formerly EMC)

Society for Nature Conservation (Sabuko)

Environmental assessment expert Mamuka Gvilava