



საია ფიტნესკლუბის საქმეში ჩაერთო

## GYLA get involved in the case of the fitness club

GYLA get involved in the case of the fitness club - Reformerfitness in Batumi, against which an investigation has launched yesterday. The investigation is carried out under Article 248<sup>1</sup> of the Criminal Code. GYLA considers that this article, according to which a person may be held criminally liable for repeated commission of an act prohibited by a governmental decree/ordinance, is unconstitutional.

According to Article 248<sup>1</sup> of the Criminal Code, it is a crime to violate the rules of isolation and/or quarantine in relation to the issues provided by the Law of Georgia on Public Health, if this act was committed by a person who was once fined under Article 42<sup>10</sup> of the Code of Administrative Offenses and has been subjected to an administrative penalty. For its part, Article 42<sup>10</sup> of the Code of Administrative Offenses provides administrative liability for violation of the isolation and/or quarantine rules established by the Law of Georgia on Public Health.

Thus, in order for a person to be held liable under Article 248<sup>1</sup> of the Criminal Code, he/she must twice violate the rules of isolation and/or quarantine established by the Law of Georgia on Public Health. This legal case is problematic because the basis for

both administrative and criminal liability is the violation of the norms established by the Ordinance N322 of the Government of Georgia of May 23rd, 2020 on the Approval of the Isolation and Quarantine Rules.

GYLA considers that the imposed quarantine measures based on the Ordinance of the Government are contradicting the Constitution of Georgia, as the Parliament delegated authority to the Government in violation of the Constitution. It is an unequivocal requirement of the Constitution of Georgia that the freedom of labor and freedom of movement be restricted by the Parliament, and not by the Government.

Accordingly, the disposition of Article 42<sup>10</sup> of the Code of Administrative Offenses and Article 248<sup>1</sup> of the Criminal Code is based on a violation of the rules of conduct adopted unconstitutionally. As the Ordinance of the Government of Georgia N322 of May 23rd, 2020 "On the Approval of the Isolation and Quarantine Rules" is unconstitutional, it is also unconstitutional to impose administrative and criminal liability on a person for violating this rule.

**GYLA once again calls on the Constitutional Court to consider in a timely manner the admitted cases concerning the constitutionality of delegating labor and freedom of movement to the government. Delay in the consideration of these claims will further damage the quality of human rights protection, call into question the effectiveness of constitutional justice, and undermine public confidence in the Constitutional Court.**