



GYLA appeals against the existing model of care at home for people with disabilities to the constitutional court

Decree №684 of December 31, 2018 of the Government of Georgia establishes sub-program for care at home for children with severe physical disabilities. This service includes the appointment of a caretaker at the state expense for the child with appropriate disabilities. Only children with a defined medical diagnosis can have the opportunity to use this service. Spinal atrophy does not fall into the list of these diseases that is why people with this diagnosis cannot demand a service of a caretaker at home. Persons suffering from spinal atrophy cannot walk, cannot move their fingers, cannot control their movement, or cannot sit without help. Due to such a barrier, people suffering from spinal atrophy not only cannot walk but also cannot act, change clothing, open the door or eat without help.

GYLA defends the interests of the two brothers with Werdnig-Hoffmann spinal muscular atrophy. The brothers live on the fourth floor in one of the residential buildings in Tbilisi. The building is not adapted to the needs of people with disabilities.

The elevator is narrow, where the wheelchair of a person with disabilities cannot be placed. The only way of entry into the building is the stairs. The building is built in Soviet times and cannot be adapted. The brothers must be brought down and up by hand on the stairs. In 2016, the father of brothers has died, the only mother cannot handle the needs of moving of two children. The brothers were refused to appoint a caretaker at home because spinal atrophy does not fall into the list of the disease, by which a caretaker is appointed at home to a person.

GYLA considers that the decree №684 creates discriminatory treatment within the group of persons with disabilities. Children with narrowly defined diseases are entitled to use service of caretakers at home. The disputed norms contradict the first paragraph of Article 11 of the Constitution, which recognizes the right of equality and prohibits discrimination on the basis of social affiliation, also they contradict the fourth paragraph of article 11 of the Constitution by which the State creates special conditions for realization of the rights and interests of persons with disabilities.

GYLA considers that the state should use a social model instead of a medical model in relation to persons with disabilities. Appointment of the caretaker for the person with disabilities should be based not on concrete medical diagnoses but on the needs of this person. The social model is derived from the UN Convention on the Rights of Persons with Disabilities (CRPD), which is mandatory for Georgia.