

მიმართვა საქართველოს ხელისუფლებას და რელიგიურ
გაერთიანებებს

Appeal to the Georgian authorities and religious associations

Today the whole world is facing a global challenge. Everyone's common goal is to defeat the COVID-19 pandemic caused by the new virus and save human lives. According to the latest figures, the number of people infected with the virus has exceeded 300,000 worldwide, more than 13,000 people have died of the disease caused by a virus, and unfortunately, the situation is still getting worse. The World Health Organization (WHO) calls on States to take drastic measures to protect the public health and stop the spread of the virus. One of the explicit requirements is social distancing and restriction on the movement. Public places are also closed for this purpose. Statistics show that in countries where strict measures of social distancing have not been taken in a timely manner, the number of infected and deceased persons is drastically high. Coronavirus infection rates and associated risks are increasing daily in Georgia as well.

On March 21st, a state of emergency was declared throughout Georgian territory, limiting the exercise of constitutional rights, including freedom of assembly, for a certain period of time.

Prior to and after a state of emergency is declared, one of the key recommendations determined by the National Center for Disease Control and Public Health of Georgia is to practice social distancing and refraining from meetings.

It is noteworthy that a number of religious associations in Georgia already take this recommendation into account and in various ways restrict or temporarily suspend their practice of collective worship and religious rituals.

Unfortunately, the Georgian Orthodox Church up to this day does not pay enough attention and disregard the vital recommendations, and by this jeopardizing both, its members and the public at large. Children also attend and participate in religious rituals and this involvement poses a particular threat to minors.

In such a situation, particular responsibility lay upon the State so that it maintains the appropriate balance, on the one hand, ensuring the exercise of the freedom of religion and belief to the fullest extent possible, and on the other hand, applying appropriate legal mechanisms and preventing the extremely high risks to the public health.

In this regard, it should first of all be said that, given the fundamental importance of freedom of religion and belief, it is inadmissible to restrict it by declaring a state of emergency in the country. However, performing and participating in collective worship and religious rituals is not an absolute right and may be restricted by the relevant strict conditions when it poses a real threat to public safety and health.

More specifically, freedom of religion and belief equally and concurrently encompasses the internal (Forum Internum) and external (Forum Externum) dimension, which means that every person is free to have (the internal dimension) and to manifest (the external dimension) the religion or belief he or she desires.

However, in a democratic society that is based on values of pluralism and diversity, in case of extreme need, certain rights and freedoms may need to be restricted in order to achieve a fair and reasonable balance between competing interests.

Such restrictions in the field of freedom of religion and belief may be imposed only on the external dimension of this right, that is, a manifestation of personal religious or other beliefs individually or collectively, privately or publicly, through the practice of worship, teaching, practice, and ritual. Whereas its' intrinsic dimension, that is the right to hold, accept, change, or renounce religious beliefs, remains, in any case, an

absolute and unrestricted right.

In accordance with relevant international standards and Article 16 of the Constitution of Georgia, such restrictions may be imposed by the State only for the circumstances where they are provided by law and are necessary in a democratic society for the protection of public order, security, health or the rights and freedoms of others. However, restrictive actions and measures must meet the standard of proportionality in the strict sense.

In view of the existing global threat, recommendations of the World Health Organization and the National Center for Disease Control and Public Health of Georgia, in order to safeguard the lives and health of people, we deem it appropriate that the right to manifest freedom of religion and belief, in particular, the right to perform collective worship and participate in religious rituals be temporarily restricted.

Once again, we emphasize that the freedom of religion and belief is a fundamental human right, without which it is impossible to maintain a democratic state based on the rule of law. That is why the measures used by the state to restrict the rights must strictly comply with the Constitution of Georgia and international standards.

As far as, on the one hand, according to the article 71 of the Constitution of Georgia during the state of emergency it is inadmissible to restrict the freedom of religion and belief, and on the other hand, given the existing epidemic situation observance of the social distancing and maximum restriction of assembly has vital importance, we call on the Government of Georgia, subject to the conditions provided by the Constitution of Georgia and using the appropriate legal mechanisms, for the legitimate purpose of protecting public health, to temporarily restrict the right to perform and participate in public religious services and religious rituals for any religion and persons in the territory of Georgia.

In order that the restrictions imposed on freedom of expression of religion and belief, meet the relevant national and international standards, the government of Georgia should ensure that the measures adopted and the actions provided is envisaged by the law, serve the legitimate goals of protecting the health of others and meets strict criteria of necessity and proportionality of the democratic society. For this purpose:

The legislative and executive authorities of Georgia

- An Authorized Office shall issue a relevant by-law, within the defined period of action, subject to the conditions provided in Article 16 of the Constitution of Georgia, for the purposes of enforcement of the requirements of Article 5 of the Law of Georgia on Public Health;
- If necessary, the Parliament of Georgia shall, in an accelerated manner, make amendments and additions to the Law of Georgia on Public Health;
- In case of violation of the aforementioned temporary measures, to apply sanctions defined by the legislation of Georgia.
- It is also important that the authorities make clear and consistent statements to the public about steps to be taken for preventive measures.

Besides, we appeal to the state

To support and assist religious associations to make the most of their religious activities and public relations in the light of the restrictions imposed.

Also, we appeal to religious organizations

Taking into account their high social authority and responsibility, take every opportunity to encourage and support the public anti-epidemic measures carried out by the State.

Signatory NGOs and Lawyers:

Tolerance and Diversity Institute (TDI)

Georgian Democratic Initiative (GDI)

Governance Monitoring Center (GMC)

Partnership for Human Rights (PHR)

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Center for Constitutional Studies

Center for Participation and Development (CPD)

Human Rights Education and Monitoring Center (EMC)

Organization “Sapari”

Women's Initiatives Supporting Group (WISG)

Equality Movement

Georgian Young Lawyer's Association (GYLA)

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