

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Files in the Constitutional Court against the Power to Banish from Courtroom and Fine a Lawyer for Contempt of Court

On May 29, 2012, Georgian Young Lawyers' Association filed in Constitutional Court for deeming certain norms of the Criminal Procedure Code of Georgia as unconstitutional. Specifically, GYLA filed over unconstitutionality of paragraphs 2, 6 and 14 of Article 85 in the Criminal Procedure Code of Georgia that regulate banishing

a lawyer from courtroom, prohibiting him/her from participating in the court of the same instance and fining him/her with the amount ranging from GEL 50 to GEL 5 000 for contempt of court.

GYLA believes that the impugned norms conflict with paragraph 1 of Article 42 of the Constitution of Georgia, since banishment or imposition of fine is not proceeded by a warning against actions of a lawyer expressing contempt of court, meaning that a lawyer is not provided with a reasonable time to terminate this action. Before banishment and imposition of fine a lawyer is not provided with an opportunity to express his/her own opinions for dispelling allegations of contempt of court. These standards are for protection against arbitrary actions of court, which is an essential part of the right to a fair trial. In addition, court's decision to banish or impose a fine on a lawyer may not be appealed in higher court, which further increases the risk of judicial error. The impugned norms allow for arbitrary placement of limitations on the right of a defendant to have his interests defended by a lawyer of his/her choice.

In this light, GYLA believes that the impugned norms violate the right to a fair trial guaranteed by paragraph 1, Article 42 of the Constitution of Georgia, as well as the right to defense guaranteed by paragraph 3 of the same Article. GYLA remains hopeful that the Constitutional Court will uphold our arguments and grant the constitutional claim.