

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



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The norm which deprived the offender of the possibility of submitting a substantiated appeal was recognized as unconstitutional

On April 18, 2019, the Constitutional Court upheld one more appeal of GYLA. GYLA was defending the interests of the citizen Irakli Khvedelidze in the Constitutional Court, whom the Tbilisi City Court recognized as an administrative offender. The court decree by which Irakli Khvedelidze was declared as an offender was delivered to him on the 12th day after announcing the resolution section of the court decision. While according to the Administrative Offenses Code of Georgia, the court decree must be appealed at the Court of Appeal within 10 days after the announcement of the resolution section. For the moment of submission of the motivation section of the court decision 10-day period of appealing has been already passed.

GYLA has made an appeal to the Constitutional Court against the norm that countdowns the period of appealing against the court decision in the higher institution begins not from the moment of the delivering of the motivation section of the decision to the party, but from the moment of the announcement of the resolution section. In the resolution section of the court decision, it is written that the person is found guilty of an administrative offense, but is not written why the person is found guilty. The reasons for recognizing the person as an offender are written in the motivation section of the court decision, which was delivered to Irakli Khvedelidze later. If a person does not know the reason why the court has recognized him as an administrative offender, he cannot appeal the court decision. The person recognized as an offender cannot insert in the appeal what is a mistake of the first instance of the court if he does not read the complete court decision. GYLA considered that the constitutional right of a fair trial was violated by the countdown of a timeframe of making an appeal from the moment of announcing the resolution section of the court decision.

The Constitutional Court shared GYLA's position and recognized the appealed norm as

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unconstitutional. At the same time, the Constitutional Court set the deadline for the Parliament to make an amendment to the Administrative Offenses Code until July 1, 2019.

This decision once again confirms that it is important to carry out the reform of the Administrative Offense Code in a timely manner because maintaining its current form violates the rights guaranteed by the Constitution.

GYLA proceeded the case within the framework of the project funded within the program of Promoting Rule of Law in Georgia (PROLoG) of the US Agency for International Development (USAID) implemented by the East-West Management Institute (EWMI).