



GYLA files a claim in the Constitutional Court

Today, on February 4, Georgian Young Lawyers' Association addressed the constitutional court on behalf of the prisoner and requested the sanction **□ □ □ □ □ □** be punished by imprisonment for a term of ten to twelve years as provided for by paragraph 5 of Article 378 of the Criminal Code of Georgia to be recognized as unconstitutional.

The Article 378 establishes punishment for interference with or disorganization of the activities of a penitentiary facility and determines categories of crimes of different gravity. The aim of this article is to protect the security of an employee of a penitentiary facility, which is undoubtedly an important interest; however, the blanket injunction provided for by the paragraph 5, contradicts the Constitution of Georgia and violates the right to inviolability of human dignity. In particular, the paragraph 5 imposes more severe sanction than the paragraphs 3 and 4 of the same article, only

because a person, who committed a crime provided by this article, is convicted for a serious or particularly serious crime.

GYLA believes that the crime, for which the person is serving a sentence, shall not affect the punishment imposed for the act provided by Article 378. It should also be noted that, serious/particularly serious crimes provided by the Criminal Code can be both violent and non-violent, but the paragraph 5 of the Article 378 does not allow the possibility to impose an exception.

GYLA believes, that the disputable norm blanketly defines the categories of the crimes, which deprives the judge of the possibility to assess and determine appropriate sanction based on the individual circumstances of the case. Such a blanket prohibition is contrary to the prohibition of the use of inhuman punishment provided for paragraph 2 of Article 9 of the Constitution of Georgia.