

საკონსტიტუციო
სასამართლომ საია-ს
სარჩელი
დააკმაყოფილა



The Constitutional Court upheld GYLA's claim

Today, the Constitutional Court upheld the Georgian Young Lawyers' Association's claim in the case - "Bekanas Ltd" v. the Parliament of Georgia.

The normative content of Article 571 of the Code of Administrative Offenses, which provided for the unconditional, obligatory confiscation of a weapon of violation as a measure of a sanction, was disputed in the case.

The applicant company extracted 1 m3 of sand beyond the proper license, the cost of which was 20 tetri, and the total amount of damage to the environment was 201 GEL, of which 200 GEL was the cost of the license fee, and the net amount of damage to the environment was 1 GEL. He was held liable for the said act based on the disputed norm and was deprived of a tractor worth \$ 54,650 as an additional penalty.

The Constitutional Court of Georgia, while discussing the constitutionality of the disputed norm, noted that the appealed article did not allow the judge considering the

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case, in each case to determine the necessity of confiscating the weapon of the violation by himself/ herself. The judge did not have the right to consider different factual circumstances, degree of injustice, personality traits of the offender, or other relevant circumstances and individualize the administrative sanction. The Constitutional Court held that due to the mentioned circumstances, the disputed norm did not meet the requirements of the constitutional principles of necessity and proportionality and declared the challenged norm unconstitutional concerning the first and second paragraphs of Article 19 of the Constitution of Georgia (property right).

The Georgian Young Lawyers' Association conducted litigation of the case with the support of USAID / PROLoG.