

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



ეს კოდექსი ჩვენს უფლებებს არღვევს



THE CONSTITUTIONAL COURT ADMITS THE SUBMITTED CLAIM ON TERMS AND GROUNDS OF THE ADMINISTRATIVE DETENTION FOR THE HEARING ON MERITS

The Constitutional Court admitted the claim, which was submitted by GYLA on behalf of Irakli Jugeli, for the hearing on merits. In this case, GYLA disputes the issue of constitutionality of paragraph 2 of Article 247 and Article 244 of the Code of Administrative Offences of Georgia.

Under paragraph 2 of article 247 of the Administrative Offences Code, "a person whose period of administrative detention coincides with the non-working time may be detained and placed in a temporary holding cell until an authorized body hears the case. In such a case, the total period of detention of a person must not exceed 48 hours." Herewith, if a person is detained during working hours, the maximum term of detention shall be 12 hours. Therefore, GYLA believes the norm in dispute contradicts with the right to equality envisaged by the article 11 of the Constitution, since it establishes unequal treatment of persons detained during working and non-working hours.

As for the Article 244, one of the established grounds for the detention under this article is to identify a person. GYLA believes that the detention of a person by the law enforcement officer on the mentioned ground creates the possibility of detaining a person for subjective, arbitrary reasons, as the norm in dispute provides indistinct grounds for detaining a person. The use of a right's restrictive means, such as administrative detention, for the purpose of identifying a person, cannot be regarded as a proportionate restriction to achieve the legitimate goal of executing the justice. Grounds for interfering with freedom of the human can only become authority established directly by law and legislation needs to clearly define prerequisites for exercising police power. Accordingly, GYLA believes that the administrative detention,

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in order to identify a person, contradicts with the right to the freedom of a human, provided for by the Georgian Constitution.

In order to accelerate the reform of the Code of Administrative Offences, GYLA has been actively conducting strategic proceeding for several years. Up to now, various articles of the Code of Administrative Offences have already been repealed. GYLA hopes that the Constitutional Court will satisfy the submitted claim, which will be another important step to repeal the existing Code of Administrative Offenses.

GYLA is conducting strategic proceeding with the support of USAID/PROLoG to repeal the Code of Administrative Offences.