

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA demands to determine constitutionality of “ANTI-SOCIAL ACTIVITIES”

On 3 April 2019, the Constitutional Court will hold a hearing on merits to consider the GYLA □ constitutional complaint filed on behalf of Giorgi Beruashvili. GYLA argues the normative contents of Article 171(1) of the Criminal Code of Georgia that envisages criminal liability for engagement of minors into anti-social activities.

Neither the Criminal Code nor any other legislative acts explains what the anti-social activity includes. In addition, the Supreme Court of Georgia has a contradictory case-law regarding the issue. Pursuant to a court ruling delivered on 6 July 2007, the Supreme Court found that anti-social activities include involvement of a minor in

criminal offences envisaged under the Criminal Code. On 3 January 2008, the Supreme Court passed another judgment. This time the Supreme Court held that the anti-social activities envisaged by Article 171 were related not to the involvement of juveniles in crime, but to those anti-social acts which are not associated with crime (for example, engagement of a minor in gambling).

GYLA believes that the term "anti-social activities" provided for in Article 171(1) of the Criminal Code of Georgia is not foreseeable and therefore, does not comply with the foreseeability requirement envisaged by Article 31(9) of the Constitution towards the Criminal Law. The disputed norm creates the possibility of using it with contradictory meaning, which is prohibited by the Constitution of Georgia. It is also noteworthy that there are other foreseeable legislative norms that prohibit incitement of a juvenile to commit crime. The Criminal Code and Administrative Offenses Code contain the provisions that prohibit adults of neglecting the child's interests, selling cigarettes and alcoholic beverages to juveniles, and involving minors in gambling. **Therefore, the impugned norm does not protect the interests of the child conflicting with the law, and contains the threat of applying selective justice to others.**