

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Constitutional Court Granted GYLA's Constitutional Claim

With its today's decision, the Constitutional Court granted GYLA's constitutional claim filed on behalf of Piruz Vanievi of the village of Khurvaleti, Gori District, and Tristan Mamagulashvili of the village of Dvani, Kareli District. Located in Kareli and Gori districts, their houses were outside the boundries of the territory recognized as occupied by the Georgian authorities. Nevertheless, Tristan Mamagulashvili and Piruz Vanievi could not return to places of their habitual residence and to make use of their property. Following the Russian-Georgian war in 2008 the Government of Georgia lost control of the part of Dvani and Khurvaleti where Vanievi's and Mamagulashvili's houses are located.

Tristan Mamagulashvili and Piruz Vanievi found themselves in the very same position as people displaced from former South Ossetia and Abkhazia. Nevertheless, unlike the

people displaced from the occupied territories, they and other persons that found themselves in a similar position, had not been granted status of an IDP and therefore, they were not entitled to IDP benefits (monthly IDP allowance, etc.).

Article 114 of the Constitution of Georgia prohibits discrimination. In its constitutional claim GYLA cited the December 23, 2011 amendment to the Law of Georgia on Internally Displaced Persons from the Occupied Territories, envisaging the status of an IDP only for persons displaced from the occupied territories, thus putting at a disadvantage those dwellers of Gori and Kareli municipalities who were not able to go back home due to the threat posed by the Russian occupants.

GYLA's position was upheld by the Constitutional Court, deeming applicable provision of the Law on IDPs unconstitutional. As a result, all persons whose housings are outside the occupied territory but within the area where the Government of Georgia is in fact not able exercise effective control, will receive a status of an IDP. In addition to Khurvaleti and Dvani, the Georgian authorities are not able to exercise effective control on parts of the territories of Gugutiaantkari and Ditsi. Therefore, following the decision of the Constitutional Court all individuals who are not able to go back to places of their habitual residence will receive the status of an IDP, whether the territory has been recognized as occupied or not.

GYLA welcomes the decision of the Constitutional Court and remains hopeful that the Government of Georgia will not discriminate in the future against citizens of Georgia affected by the Russian-Georgian war.