

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Challenges the Rule of Inadmissibility of Evidences in the Constitutional Court

GYLA lodged a lawsuit in the Constitutional Court and challenged constitutionality of the Criminal Procedure norm, which considers inadmissible only the evidences obtained in violation of requirements of the Criminal Procedure Code, while it regards admissible evidences obtains in violation of other laws.

Article 7 of the Law of Georgia on “Operational-Investigative Activities” regulates the issue of secret eavesdropping. With a view to acquire information through secret

eavesdropping, it is necessary to have court order or urgent necessity. If the secret recording was obtained without court order and urgent necessity, the evidence attained this way against the defendant will be considered admissible, since the secret eavesdropping was implemented as per the Law on “Operational-Investigative Activities”, rather than in violation of the Criminal Procedure Code.

Para 7, Article 43 of the Constitution of Georgia provides that evidence obtained in violation of law shall have no legal force. The Constitution implies any law, rather than Criminal Procedure Code only.

GYLA opines that the rule of inadmissibility of evidences envisaged as per Article 72 of the Penal Procedure Code comes in conflict with Para 7, Article 42 of the Constitution and should be declared invalid by the Constitutional Court.