

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA files against Abolishment of Monthly Subsistence Allowance in Constitutional Court

On behalf of former employee of Kutaisi machine installation bureau Benjamin Abramidze, GYLA filed in Constitutional Court of Georgia, seeking certain provisions of the Resolution of the Government of Georgia N53 on the Procedure for Compensating Health Injuries Sustained by Workers in the Course of their Job to be deemed unconstitutional.

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GYLA believes that the Resolution of the Government of Georgia N53 contradicts para. 1 and 2 of Article 21, Article 39 and para. 9 of Article 42 of the Constitution of Georgia. Instead of reasonably decreasing the amount of pecuniary assistance, necessary for saving budget funds, the disputed normative act completely abolished the monthly subsistence allowance. Furthermore, this state was not authorized to fully reject the right of an individual to receive a monthly subsistence allowance, as the request was based on a legal expectation derived from court's decision or an administrative act. Legal expectation of social welfare from the state derives from the principle of legal security, which is an essential characteristic of a rule of law based state envisaged in the Preamble of the Constitution.

The impugned norms allows the state to evade the responsibility for the health injury inflicted to an employee, by means of liquidating a ministry, sub-agency or legal entity of public law where the victim sustained employment injury. In this respect, the lawsuit notes that for the purposes of para. 9 of Article 42 of the Constitution, the state as a whole is responsible for injuries inflicted to a victim, as opposed to an individual state agency or an official concerned. Liquidation of a structural unit of the state whose culpable action resulted in employment injury, may not have any influence on the noted responsibility.

Arguments cited in the lawsuit are based on the practice of the Constitutional Court of Georgia and the case law of the European Court of Human Rights in Strasbourg. Abolishment of monthly subsistence allowance was also taken up to the European Court of Human Rights by GYLA. GYLA is representing applicant's interests in *Gvaradze v Georgia*.