



GYLA demands to make an amendment to the civil code

GYLA addresses the Parliament with a legislative proposal and demands to make an amendment to the Civil Code of Georgia. In the course of analysis of the current legislation and judicial practice, it was revealed that in the case of using an administrative arrest for an administrative offense, if the proceedings on an administrative offense is terminated and the person is not recognized as an offender, the damages shall be compensated only when the illegitimacy of the action of law enforcement officers is established.

According to the part 3 of the article 1005 of the current edition of Civil Code, the damages inflicted to a rehabilitated person by illegal conviction, illegal prosecution, illegal detention as a measure of restraint, improper imposition of an administrative penalty in the form of administrative detention or corrective labour shall be reimbursed irrespective of the fault of the officials. The aim of this norm is to provide an efficient mechanism for compensation for the damage to a person as he has to endure unfair limitation of his constitutional rights, although actions taken for the limitation of rights was legally.

The defect of this norm is that it does not include administrative arrest as the ground

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for compensation for damages irrespective of the fault of officials. That is why, in case of termination of proceedings of administrative offense against a person detained by an administrative procedure, the person shall not be paid damages if illegitimacy of limitation of rights is not established despite the fact that interference in his right was ultimately unjustified.

Therefore, GYLA calls for the Parliament of Georgia to make an amendment to the part 3 of the article 1005 of the Civil Code of Georgia and to determine that administrative arrest shall be the ground for compensation for damages to the rehabilitated person, irrespective of the fault of official.