



## The Constitutional Court has upheld GYLA`s claim

On December 14, 2018 the Constitutional Court ruled that the words of Article 56 (5) of the Code of Criminal Procedure, which, upon the superior prosecutor`s denial prohibited to appeal the case of a person, reported to be a victim of less grave or particularly grave crimes, to be unconstitutional.

GYLA advocated for the interests of the applicant G.G. and believed that the restriction imposed by the disputed norm contradicts the right to a fair trial guaranteed by Article 42 (1) of the Constitution of Georgia, since the person did not have the opportunity to appeal the right restriction act – prosecutor`s decree on rejection to recognize the applicant as the victim.

The Constitutional Court`s decision emphasized the law grants extremely important rights to the person effected by the crime, through which they get certain procedural

guarantees during the criminal proceedings, along with the opportunity to be informed regarding the case progress, also they get equipped with the necessary means to control a prosecution side. Consequently, the person has an increased interest appealing against the prosecutor`s decision regarding the victim status.

The Constitutional Court has also discussed the legitimate aim set by the defendant, according to the aim noted, while assessing the limitation of the right to appeal to the court, it is important to consider how high is the threat for the court to be case-packed and whether it overweighs the protection of particular rights of a person or not. The Court noted that only general reference regarding the court`s overloading, or indication of justice impediment without tangible evidences, cannot justify such blanket restriction imposed by disputed norm, which does not take into account the importance of the quality of damage experienced by the victim and also the importance of enjoying with rights guaranteed by law.

Taking into account the above noted, the Constitutional Court considered that the impugned norm is incompatible with the right to a fair trial, and it contradicts the requirements of Article 42 (1) of the Georgian Constitution.

From now on, all the persons who have not been able to appeal against the prosecutor`s decree on being reported as victims of less severe or severe crimes, will be able to appeal to the court.