

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



The Constitutional Court Partially Upheld GYLA's Constitutional Claim

On February 27, 2014 the Constitutional Court of Georgia delivered the judgment on the case "Ilia Chanturia v. the Parliament of Georgia". GYLA represented interests of the applicant Ilia Chanturia in the Constitutional Court. The applicant challenged constitutionality of the provision of the Civil Procedure Code, which envisaged eviction of the party to the process or his/her lawyer from the trial or their penalization for contempt of the court, without giving chance to submit any explanation about their conduct. Moreover, evicted or penalized individual was also deprived of the opportunity to appeal the court decision in the superior instance.

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The court partially upheld GYLA's position and ruled that eviction or penalization of the party or a lawyer from the trial for contempt of the court, unless the oral hearing is conducted in advance, comes in conflict with Para 1, Article 42 (right to fair trial) of the Constitution of Georgia. In addition, the Constitutional Court deemed unconstitutional prohibition to appeal in superior instance the court decision on eviction or penalization of the party to the case or a lawyer. Further, the Constitutional Court deemed that there is no necessity to conduct the oral hearing, when the court evicts the attendee of the trial.

It should be noted that the Criminal Procedure Code contains the same provision as Article 212 of the Civil Procedure Code, that was declared unconstitutional. Last year, the Parliament of Georgia introduced amendment to the Criminal Procedure Code and it became possible to appeal the court decision on eviction from the court or penalization. Though, even this amendment disallows the party and his lawyer to submit their opinion at the oral hearing prior to eviction or penalization.

GYLA welcomes the Constitutional Court decision and calls on the Parliament of Georgia to introduce relevant changes to the Criminal Procedure Code, by which the party and his lawyer will be given chance to state their position prior to making decision about eviction or penalization.