

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



The Constitutional Court Upheld the Claim of Georgian Young Lawyers' Association

On February 28, 2012 the Constitutional Court upheld the claim filed by Georgian Young Lawyers Association and citizen Tamar Khidasheli against Parliament of Georgia. The claim was filed by GYLA in October 2008, requesting para. 2 of Article 8 of the Law of Georgia on Operational Investigative Activities to be recognized as unconstitutional.

The norm allowed extension of an operational investigative measure to up to 6 months based on a motivated resolution of chief of an operational investigative agency and with prosecutor's consent, if operative information about a criminal action of an individual required collection of additional information. It allowed investigation authorities to secretly intercept conversations of individuals concerned for the period of 6 months, violating para. 1 of Article 20 of the Constitution of Georgia – right to a privacy.

The respondent – Parliament of Georgia – did not agree with the noted interpretation of the impugned norm, maintaining that the law did not allow for secret interception and surveillance without court's control.

Eventually, the Constitutional Court concluded that the impugned norm allowed extension of term, including of operational investigative measures that entail secret surveillance and interception, which resulted in violation of the right to privacy guaranteed by para. 1 of Article 20 of the Constitution of Georgia.

In its judgment the Constitutional Court highlighted the particular importance of the right to privacy. Therefore, it upheld the claim of GYLA and deemed the impugned norm as unconstitutional.