

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



64-Year Old Man Sentenced to Imprisonment for Stealing GEL 35 Worth of Boards

District Court of Mtskheta sentenced a displaced person from Liakhvi Gorge, sculptor Valerian Chilashvili to one year of imprisonment on January 22, 2011. The Prosecutor's Office of Mtskheta detained 64-year old Chilashvili in October 2010 on charges of stealing GEL 35 worth of wooden boards. Based on the motion of the Prosecutor's Office, Chilashvili was granted bail for GEL 2000 but as the defendant could not afford the bail, he was imprisoned.

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Pursuant to paragraph 2 of Article 7 of the Criminal Code of Georgia, “Crime shall not be the action that, although formally carrying the signs of crime, has not produced, for minor importance, the prejudice which would necessitate the criminal liability of its perpetrator, or has not created the threat of such prejudice”. This norm was not applied to the prosecution case of Chilashvili, notwithstanding the fact that in order to ensure effective practice of the norm, on October 8, 2010, Minister of Justice of Georgia Mr. Zurab Adeishvili issued Ordinance N181 on Criminal Justice Policy Guidelines. Under the Ordinance, if damage inflicted by crime is of minor importance, criminal proceedings shall not be instituted against the person.

The Ordinance lays out two tests that are necessary to be met for instituting criminal proceedings against a person:

- 1) Evidence test;
- 2) Public Test.

Pursuant to the Ordinance, if either of the tests is failed, criminal proceedings shall not be instituted against the individual.

Under the December 26, 2006 Presidential Decree N767, minimum labor compensation for sanctions, fines and other payments for violation of law, related to the minimum salary was fixed at GEL 40. Therefore, GEL 35 worth of damage should have been deemed as minor damage, which could have served as the basis for terminating criminal prosecution.

Furthermore, it shall be noted that GEL 35 is not an accurate cost of the damage inflicted, as an expert has not examined the items to determine their value; thus, whether the actual cost of the damage is no less than GEL 35 has not been substantiated.

Valerian Chilashvili pleads not guilty. The prosecution has not presented sufficient evidence for pronouncing the defendant guilty. Neither the evidence test (which entails collection of evidence) nor the public test has been met in Chilashvili’s prosecution case.

Buchukuri, who has been identified as a victim, was a main witness in Chilashvili’s case. Statements that he gave during investigation and in court are contradicting, which produces valid doubts about objectivity of his statements.

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Criminal prosecution against Valerian Chilashvili was concluded by a verdict of guilty. The defendant was prescribed to one year of imprisonment. In addition to being groundless and unlawful, the verdict of guilty is also unjust, as the sentence is clearly disproportionate, which amounts to violation of the right of liberty and security.

We believe that the Chief Prosecutor's Office of Georgia, as well as common courts had an actual opportunity to practice principles of the new criminal procedure law, the innovative purpose of which was to introduce liberal approach to similar cases. Regrettably, the aforementioned case demonstrates different procedural violations and excessively cruel and severe criminal policy.

Studio Monitoring did investigative reporting about the case. The movie featuring results of the investigation can be viewed at http://monitori.ge/video_blank.php?vid=231.