



## GYLA has won another drug planting case in the European Court

On 22<sup>nd</sup> April 2021, the European Court of Human Rights in the case of *Kalandia v. Georgia* upheld GYLA's appeal and found a violation of Article 6 (1) of the European Convention (the right to a fair trial). Kalandia's case is one of GYLA's cases involving politically motivated prosecutions and is similar in essence to GYLA's two cases won in the European Court, *Tlashadze and Kakashvili v. Georgia* and *Megrelishvili v. Georgia*.

The applicant, Tengiz Kalandia, alleged that in 2009 the drug had been planted on him for his active support of his opposition-minded friend. In particular, T. Kalandia, together with Vladimir Vakhania, was the founder of the political party "United Georgia". On March 15, 2009, Vakhania was arrested at his home on charges of interference with the journalistic activities of a local journalist. After Vakhania's arrest, the applicant continued to assist and support him actively. On March 25, 2009, police arrested Kalandia. Tengiz Kalandia was sentenced in 2009 to 18 years imprisonment for the crime under Article 260 (3) of the Criminal Code (illegal purchase and storage

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



of drugs in large quantities). The applicant applied to the European Court in 2010. Under the amnesty law of 28 December 2012, Tengiz Kalandia was released on 18 January 2013. Tengiz Kalandia died on February 5, 2017, but his son, Konstantine Kalandia, expressed his wish to continue the case in the European Court.

By the judgment of Kalandia's case, like the cases of Megrelishvili, Tlashadze and Kakashvili, it is clear that the existing justice system does not contain sufficient procedural guarantees to protect individuals from alleged arbitrariness by law enforcement. Tengiz Kalandia's conviction delivered by national courts was based only on the search and arrest records, testimonies of those police officers who carried out search and arrest operations, and evidence obtained during the search. Among the problematic issues were conducting a search based on operative information and realizing the right to invite the witnesses to attend the search, using police testimony as evidence and lack of other, neutral and credible evidence in the case.

In particular, in the case of Kalandia, it was reaffirmed that in conducting searches based on operative information, the national court did not verify the accuracy and reliability of this information; the applicant's arrest and personal search of him were unlawful and unfounded. Also, the applicant was not allowed to invite attending witnesses during the search. Evidence in Kalandia's case was the testimony of those police officers who were directly involved in his arrest and search and who, at the same time, were investigating his case. The said persons were representatives of the prosecution, and, therefore, they were interested in the outcome of the case; however, the testimonies given by them were not corroborated by any other credible and neutral evidence. In addition, the testimonies of the police officers were substantially contradictory.

Georgia needs to take appropriate individual or general measures concerning the above cases to effectively enforce the judgment and address existing structural and systemic shortcomings in a timely manner.

***The Georgian Young Lawyers' Association litigated the case with the support of USAID / PROLoG.***