

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Reacts to the Wrongful Application of the Law of Georgia on Amnesty in Practice

By the Georgian Parliament's adoption of the law of Georgia on Amnesty on December 28, 2012, the Government of Georgia once again expressed its humane attitude towards persons who have committed a crime or who have been subjected to criminal proceedings.

We deemed it important to address the issue of amnesty having learned about the

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decision of Tbilisi City Court in the case of a convicted A.R. Under the Law on Amnesty, amnesty fully applies to a person convicted of fraud if the victim consents to the amnesty. Otherwise, punishment must be decreased by $\frac{1}{4}$. In the present case, although there were no victims involved, instead of delivering due decision independently the court invited state prosecutor to express his position during trial. Subsequently, the court shared position of the prosecutor and decreased A.R.'s punishment by $\frac{1}{4}$ instead of a full amnesty.

We believe that the law was wrongfully interpreted. Even if the court considered that the law did not provide clear and precise response with respect to the issue involved, it should have interpreted the legal ambiguity by prioritizing human rights as opposed to taking into account the position of the state, which had not been recognized as victim in the present case.

As the process of application of amnesty to persons envisaged by the law is still ongoing, GYLA deems it necessary to remind to the law enforcement authorities and the judiciary that they should apply the amnesty law based on its objectives and individual's interests, in full compliance with lawfulness and fairness.