

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



ეს კოდექსი ჩვენს უფლებებს არღვევს



GYLA APPEALS ANOTHER ARTICLE OF THE OF CODE ADMINISTRATIVE OFFENCES TO THE CONSTITUTIONAL COURT

Today Georgian Young Lawyers' Association has addressed the Constitutional Court on behalf of LLC Bkanasi. The subject of the dispute is Article 57¹ of the Code of Administrative Offences, according to which exploitation of mineral resources without a relevant license – shall carry a fine from GEL 1 000 to GEL 1 500, as well as confiscation of the instrument and object of the offence.

According to article 19, paragraph 1 of the Constitution of Georgia the property and the right to inherit shall be recognized and guaranteed. Paragraph 2 of the same article establishes the standard of interference with property rights, according to which interference with property rights should be a matter of public interest in cases stipulated by the law.

Conditions of application of the contestable norm by the common courts and administrative bodies are problematic. After the judge/administrative body has determined that the person is an offender, article 57¹ of the Code of Administrative Offences imperatively requires that the offender be deprived of the instrument of the offence. This process does not assess whether, in the light of specific factual circumstances, it is in the public interest to deprive the offender of the instrument of the offence.

The plaintiff does not dispute the possibility of confiscation of the instrument of the offence as a penalty under article 57¹ of the Code of Administrative Offences. The normative content of the contestable norm is problematic for him which envisage to deprive the offender of the instrument of the offences unconditionally/imperatively that preventing the administrative body and the judge from determining whether the need for the offender to deprive of the instrument of offense is a necessary and proportionate remedy as a result of assessing the public and private interests in each

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particular case.

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