

მცდარი სამედიცინო ქმედების გამო სამედიცინო დაწესებულებას ზიანის ანაზღაურება დაეკისრა

## Compensation for harm caused by the medical malpractice was imposed on the medical institution

The parent of the deceased patient won a lawsuit against the medical institution. The Supreme Court of Georgia upheld the decision of the Tbilisi Court of Appeals, which ordered the medical institution to pay GEL 5,000 in respect of non-pecuniary damages and GEL 10,000 in pecuniary damages (funeral expenses) in favor of the patient's parent. GYLA defended the plaintiff's interests in court.

The patient has died on December 5th, 2014 as a result of improper treatment by the doctor of the Akhmeta District Ambulance Service. The patient's parent disputed that medical malpractice had occurred on the part of the ambulance doctor, which was expressed in the doctor's failure to implement necessary medical actions to comply with the recognized medical standards, which led to the patient's death. Aside from medical malpractice, the ambulance vehicle was not equipped with the appropriate medical inventory.

In order to clarify the guilt of the defendant in the death of the patient, the court

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focused on the indisputable circumstance that despite the fact that during the call to the emergency the ambulance service was provided information about the patient's possible complaints - arrived medical staff did not have an electrocardiogram device. The court also referred to the factual circumstance that despite the patient's complaints (severe pain in the chest area) (which was known to the medical brigade at the stage of the call) emergency medical personnel due to lack of the appropriate device did not make electrocardiogram to a patient nor conducted a standard treatment for these complaints.

Taking into account the established factual circumstances, the court concluded that the harm in the case under consideration (death of the plaintiff's child) was caused by the medical errors committed from the medical staff during the treatment process.

It should be noted that the Georgian legislation does not explicitly provide the possibility of compensation for non-pecuniary damages to a medical institution due to the death of a close relative of the person. However, the Supreme Court of Georgia in accordance with the changed practice due to the Judgment of the European Court of Human Rights on July 19th, 2018 against Georgia (Sarishvili-Bolkvadze v. Georgia) deemed that there were grounds for compensation for harm. Court established undisputed the fact of psychological distress suffered by a parent related to the sudden death of her child due to illicit activities, which gave the possibility to the presumption that because of the negative factors of the death of her son, the parent's health suffered detrimental harm which resulted in mental anguish, strong emotional stress, which subsequently worsened her health condition which was accessed as a precondition for moral (non-pecuniary) damages.