

ნიკა მელიასათვის
პარლამენტის წევრის
უფლებამოსილების
ვადაზე ადრე შეწყვეტა
საკონსტიტუციო
სასამართლოში
გასაჩივრდა



Early termination of Nika Melia's MP powers is appealed to Constitutional Court

On December 23rd, 2019 Nika Melia's constitutional claim was filed to the Constitutional Court appealing the December 12th, 2019 resolution on the early termination of his MP mandate. Nika Melia's interests in the Constitutional Court, together with his lawyer Giorgi Kondakhishvili, are defended by the Georgian Young Lawyers' Association.

The Georgian Parliament terminated Nika Melia's MP powers based on the judgment of the Tbilisi City Court of December 2nd, 2019. According to the judgment, the court of the first instance found Nika Melia guilty of abuse of office (article 332, paragraph 1 of the Criminal Code). The operative part of the judgment was sent to the Committee on Procedural Issues of the Parliament of Georgia, which was the basis for termination of Nika Melia's term of office as a deputy.

Parliament cited as an argument for termination of Nika Melia's power under Article 39, paragraph 5 and sub-paragraph D of the Constitution of Georgia, according to which "the powers of a Member of Parliament shall be terminated early if he/she has been convicted by a court judgment that has

entered into legal force." GYLA considers that the Georgian Parliament incorrectly interpreted the mentioned norm of the constitution. In the event of the possibility of the Court of Appeal or the Supreme Court of Georgia annulling the judgment against Nika Melia and acquitting Nika Melia, the Parliament of Georgia should not have been considered the conviction by a court of the first instance to be already entered into legal force. Subject to the resolution of the Parliament of Georgia, if Nika Melia is acquitted by the Court of Appeal or the Supreme Court, his powers as a Member of Parliament could not be restored. By this, it makes no sense to appeal the judgment of the Tbilisi City Court. At the same time, the decisions of the Court of Appeal and the Supreme Court remain unenforceable: Nika Melia will only be exempted from paying the fine imposed by the Court, his power of an MP could not be restored even in the case of his acquittal by Court of Appeal or Supreme Court;

Article 31, paragraph (1) of the Constitution of Georgia guarantees the right to a fair trial. This right implies the possibility that the judgment of conviction of the first instance Court can be appealed to a higher court as well as the enforceability of a court decision. Parliament's resolution grossly violates these two basic principles of the right to a fair trial, since it would make no sense to appeal the judgment of conviction and at the same time, it would exclude the possibility of enforcement of the decision on acquittal by Appeals Court or the Supreme Court. Accordingly, the resolution of the Parliament of Georgia, in addition to Article 39, paragraph (5), subparagraph (d) of the Constitution of Georgia, also violates the right to hold public office and to a fair trial.

The Constitutional Court, unlike the Court of Appeal or the Supreme Court, has the power to declare null and void the Parliament's resolution on early termination of a Member of Parliament's power from the date of entry into force of this Resolution (from December 12th, 2019). Accordingly, by this constitutional claim, the applicant seeks to declare the aforementioned Parliament's resolution unconstitutional and his powers of an MP to be restored.