

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA applied to the Constitutional Court to determine the Constitutionality of the prohibition of the right of inheritance by stepchild

The Georgian Young Lawyers' Association addressed the Constitutional Court on behalf of Giorgi Khorguashvili. GYLA raises a question of the issue that the stepson is not an heir on the intestacy of his stepmother or stepfather, even if the stepmother or stepmother does not have blood relations and she or he did not make the will in favor of a stepson. If the stepmother or stepfather does not have close relations, instead of a stepson, his property is transferred to the state.

The Civil Code of Georgia defines the five degrees of the heirs who shall inherit the property of the decedent (testator) if he/she has not written a will before his death. The first degree heirs includes the spouse, children, and parents of the testator. Grandchildren shall be deemed to heirs on intestacy if, at the time of the death of Grandmother or grandfather their parent- the son or daughter of a testator is no longer alive. If there are not the first degree heirs, the property is transferred to the next degree heirs. The second degree heirs include siblings of decedents, as well as nieces and nephews if the sisters and brothers of the decedent are no longer alive. The third degree includes grandmother and grandfather of a decedent, the fourth degree uncles, and aunts, the fifth degree – first cousins and their children. If the decedent does not have even the fifth degree heirs, but he/she has a stepchild who maintained his/her stepmother or stepfather, in spite of this, the estate is still transferred to the state.

Article 1226 of the Civil Code obliges the stepmother and the stepfather to maintain the minor stepchild if he/she is unable to receive maintenance from his/her parents. Article 1227 of the Civil Code obligates the stepchild to maintain their disabled stepparents who need support. In spite of this obligation, the stepchild and the stepmother (the stepfather) will never become the heirs of each other, even if they maintained each other in their life and he/she has no other biological relatives.

GYLA also argues about the constitutionality of the article 1343 of the Civil Code. According to this regulation, the estate of the deceased beneficiary shall be transferred to the old people's home who cared for him/her by the end of his life if the deceased did not leave intestacies from the first to fifth degrees. This regulation puts a stepchild in the discriminatory situation compared to the old people's home. The stepchild may care for his/her old stepmother (stepfather) in the family environment as the old people's home maintain its beneficiary. In spite of this, the property of the

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deceased beneficiary is transferred to the old people's home, but the stepchild shall not receive the property of his/her stepmother and stepmother. **GYLA believes that the appealable regulation is incompatible with the right to equality guaranteed under Article 11 of the Constitution of Georgia.**