

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Cases Successfully Litigated in July and August

**With the assistance from GYLA's office individuals dismissed from "Children's Youth National Center" of the Ministry of Sport and Youth Affairs of Georgia were restored to work**

A lawyer from GYLA's office in Tbilisi was representing N.A.'s, A.S.'s and M.Z.'s interests. They worked in LEPL "Children's Youth National Center". On December 31, 2012, upon decision of the Center, they were dismissed from the office unreasonably. The employer founded his decision on Article 37(1d) of the Labor Code which has been interpreted for years in violation of employees' interests.

With GYLA's assistance it was proved during the trial that by dismissing the applicants

from the office the employer has violated Labor Legislation of Georgia. The appealed orders were illegal since employer's arbitrary and unsubstantiated decisions were clearly determined. Accordingly, Tbilisi City Court invalidated the dismissal orders of GYLA's beneficiaries and they were restored to their previous positions. Moreover, LEPL "Children's Youth National Center" of the Ministry of Sport and Youth Affairs of Georgia was ordered to reimburse more than GEL 36 000 to applicants for the missed salaries.

### **With assistance from GYLA's office, Tbilisi City Court recognized illegal the decision of the Tbilisi State University**

A lawyer from GYLA's Tbilisi office provided legal assistance to L.G. participant of the competition announced on June 19, 2012 on the vacant positions of associated and assistant-professors at the faculty of social and political sciences at Tbilisi State University. L.G. has not been granted the status of the applicant, nor was she given the right to participate at the second stage of the competition (an interview). Accordingly, another person was appointed on the academic position. L.G. alleged about her discrimination and complained about unlawful and unreasoned decision of the University. With assistance from GYLA's office, L.G. applied to the court claiming invalidation of the decision.

Tbilisi City Court did not satisfy the claim, and it was challenged in the appellate court. The appellate court recognized violation of law from the side of the University and considered unreasonable universities denial to grant the status of the applicant to L.G. In view of above, appellate court repealed the decision of the first instance court, annulled the challenged acts and ordered the University to issue the new acts within a month. The decision of the appellate court has entered into force since the Supreme Court considered the University's complaint inadmissible.

### **With GYLA's assistance, the Appellate Court repealed the sentence of the first instance court in terms of some individuals detained during the May 1 manifestation**

With assistance from GYLA's Tbilisi office, the appellate court fully upheld L.K.'s complaint, an individual detained and brought to administrative liability during the May 1 manifestation. The appeal court ruled that he has not committed an offence and repealed the decision of the first instance court on imposing of penalty as per

Article 166 (petty hooliganism) of the Administrative Code of Offences.

The appellate court partially satisfied lawsuits of other three participants of the manifestation. Namely, in S.Ch.'s and I.S.'s cases the appeal court terminated the initiated administrative case and issued a reprimand instead of the fine envisaged by the first instance court. As for T.A. he had to pay GEL 400 as per Article 166 (petty hooliganism) and Article 173 (disobedience to lawful instruction of the police) of the Code of Administrative Offences. The appellate court partially upheld the complaint and terminated proceeding in the part of penalty (GEL 400) as per Article 173 of the Administrative Code of Offences. As a result, administrative penalty was imposed in the amount of GEL 100 as per Article 166 of the Code.

**With assistance from GYLA's Kutaisi branch, the ex-chairman of Khoni local council has been acquitted**

With assistance from GYLA's Kutaisi branch, Kutaisi city court considered G.G., ex-chairman of Khoni local council innocent by its June 28, 2013 judgment.

G.G. was accused as per Article 332(1) of the Penal Code of Georgia, abuse of official duties. Namely, according to the resolution on conviction, he abused his official duties in violation of public interests and thus inflicted to the state material damage in the amount of GEL 10200.

The court shared position of the defense and accepted that examined evidences were insufficient for proving submitted charges and for satisfying the standard beyond the reasonable doubt, namely for justifying the fact of abuse of official duties and unreasonable spending of state funds. Accordingly, the court delivered acquitting judgment.

**With assistance from GYLA's Kutaisi branch, A.J. was released from administrative liability**

GYLA's Office in Kutaisi was representing A.J.'s interests in a court, who was fined GEL 1000 as per

Article 1971 of the Administrative Code of Offences, namely non-appearance before the enlistment office in order to evade military service.

The judge accepted position of the defense that A.J. has committed a minor administrative offence. By the June 7, 2013 ruling of Kutaisi City Court, he was released from administrative liability and received only reprimand.

**With assistance from GYLA's Kutaisi branch G.A. and N.K. will receive pecuniary compensation from the General Prosecutor's Office of Georgia for being brought to criminal responsibility illegally**

A lawyer from GYLA's Kutaisi branch was representing G.A.'s and N.K.'s interests accused as per Article 1641 (vote buying) of the Criminal Code of Georgia. By November 27, 2012 decision of Kutaisi City Court criminal persecution has been terminated against G.A. and N.K. as far as submitted evidences were insufficient for convincing an impartial individual in their offence.

After entry of the decision in force, G.A. and N.K. applied to Tbilisi City Court for compensation of the damage that resulted for illegally submitted charges. According to the decision of the Administrative Board of Tbilisi City Court, G.A will receive from the General Prosecutor's Office compensation in the amount of GEL 2000 and N.K. will receive GEL 1000.

**With the assistance from GYLA's Office, one more illegally dismissed teacher was restored to former position under the court's decision**

GYLA's Kutaisi branch was representing in a court E.A.'s interests dismissed from her work of a teacher by the order #83 of August 26, 2012 of the manager of Cultural, Art and Educational Institutions Union as per Article 37(1d) of the Labor Code.

Kutaisi City Court restored E.A. on the previous post. The court fully upheld position of the defense that para.1d, Article 37 of the Labor Code does not grant to the employer unlimited discretion to dissolve labor agreement with an employee without any grounds. The court considered that the right of parties to dissolve labor agreement by the given norm is restricted, since there is no absolute civil right. It is always bound with lawfulness of its realization. The court shared GYLA's position that according to Civil Code of Georgia civil rights should be exercised lawfully and stated that realization of the right in terms of E.A was unlawful.

**With assistance from GYLA's Office, court's decision on restoration of former 11 public servants of Lentekhi municipality to their positions and compensation for the missed salary was sent for immediate execution**

GYLA's Kutaisi branch was representing interests of T.F., T.Ch., A.O.'s and other individuals (11 persons in all) dismissed illegally from their posts on the basis of February 18, 27 and March 28, 2013 orders of Gamgebeli of Lentekhi municipality.

Administrative Board of Kutaisi Appeal Court satisfied the lawsuit of 11 former public servants of Lentekhi municipality Gamgeoba claiming invalidation of dismissal orders, restoration to their positions and compensation for the missed salaries.

Lentekhi court and Administrative Board of Kutaisi Appeal Court satisfied application of the GYLA's lawyer and sent for immediate execution court's decisions on invalidation of applicants' dismissal orders, their restoration to previous posts and compensation for missed salary.

**With GYLA's assistance, a minor will receive compensation for the suffered damage**

GYLA's Ozurgeti office represented minor M.Sh.'s interests in a court who had sustained serious bodily injury in a car accident. Kutaisi City Court by its May 28, 2010 judgment considered J.K. guilty as per para. 3., Article 276 of the Criminal Code of Georgia (violation of the traffic movement security rules or exploitation rules that caused serious bodily injury). Nevertheless, he refrained from reimbursing costs for medical treatment to M.Sh.

As a result of active involvement of a lawyer, by July 16, 2013 decision of Zestaphoni regional court, act of negotiation was made among the parties and J.K. was ordered to compensate GEL 5996 for the caused damage.

**With assistance from GYLA's office, an individual entrepreneur was exempted from illegally imposed penalty**

GYLA's Telavi Office was representing individual entrepreneur K.M.'s interests in a court fined GEL 300 by Kakheti regional unit of National Food Agency for operation without being registered as a business operator as per Article 64 of the Food Security,

Veterinary and Plant Protection Code. As far as K.M.'s activity was not connected to production, processing and/or distribution of food and according to the mentioned legislation was not obliged to register as a business operator, with GYLA's assistance he applied to the court on invalidation of the protocol of offence drafted by Kakheti regional union of the National Food Agency. Having considered the protocol illegal and unsubstantiated Telavi regional court invalidated it and exempted K.M. from payment of illegally imposed fine.

### **With assistance from GYLA's office the citizen was released from administrative liability**

V.M. has been fined GEL 200 by Kakheti unit of the Patrol Police of the Interior Ministry as per Article 116 of the Administrative Code of Offences (Driving a motor vehicle under influence of alcohol). Under the advice of GYLA's lawyer he underwent an independent expertise for determination of the alcohol influence. The examination verified that he was sober. Afterwards, he applied to Telavi regional court with a claim to invalidate the protocol of administrative offence. The court satisfied the demand and the applicant was released from administrative liability.

### **With assistance from GYLA's office the citizen registered immovable property in the public register**

T.A could not register his immovable property in the public register for inconsistency of the name in ID card and in a document verifying the title, namely in a certificate from the public register. With assistance from GYLA's Office in Dusheti T.A. applied to the court. According to the decision of Mtskheta regional court, the fact of legal importance, belonging of the document was verified and the applicant was able to register immovable property in the public register.

### **With assistance from GYLA's office, beneficiaries managed to receive certificate of heritage**

Individuals L.V., V.B., and V.P. were unsuccessful to receive title deed on estate since they have missed the legislative term set for receiving the document. With assistance from GYLA's Dusheti Office, they have applied to the court with application. According to the decision of Mtsekhta Regional Court the fact of legal importance has been

determined and they managed to receive title deed on estate.

### **With assistance from GYLA's office minors will receive alimony**

Lawyer from GYLA's Gori office litigated in the civil case in Gori regional court. According to July 18, 2013 decision of Gori regional court G.K. was ordered to pay monthly alimony in the amount of GEL 200 to his minor children L.K. and S.K.

### **With assistance from GYLA's office, illegally imposed arrest was removed from property**

GYLA's Ajara branch was representing K.T.'s and E.S.'s interests in a court whose movable property has been arrested by the National Execution Bureau for failure to fulfill respondent's contractual obligations. With assistance from GYLA's lawyer K.T. and E.S. applied to the court and requested termination of execution as a security for claim. Batumi City Court also satisfied their lawsuit on vacation of the property from arrest. The description-arrest act of the execution bureau was considered illegal and the applicants were released from realization of their movable property for implementation of others' obligation.

### **With assistance from GYLA's Gori Office, the service agency of the Ministry of Interior issued a document on three former political prisoners and verified that they had no previous convictions**

GYLA's office in Gori was representing interests of K.M., D.J., and Z.B., recognized as political prisoners on the bases of Parliamentary resolution of December 5, 2012 "on individuals arrested or persecuted with political motives". As per Article 22, of the "Amnesty Law" of December 27, 2012 they, as individuals arrested for political motives, were released from criminal responsibility and from the sentence. As per Article 79(2) of the Penal Code of Georgia, a person totally released from the sentence is considered to be without previous criminal record. In view of this, K.M., D.J., and Z.B. applied to Gori unit of the MIA service agency and asked to issue their criminal record. The unit issued a document providing that they had previous convictions. Afterwards the document was challenged in MIA service agency and the Ministry of Interior. The Ministry satisfied applicant's complaint. The new document was issued stating that they had no previous convictions on the bases of the order#644 of August

16, 2013 of the Minister of Interior on “arranging of some issue in terms of issuing the document on criminal record.”

**With assistance from GYLA’s Gori office, IDP woman was recognized as co-owner of the apartment**

GYLA’s office in Gori provided legal assistance to A.M., the internally displaced person. She was in registered marriage with E.P. Gamageoba of Kareli municipality has given to them, as to IDP family, two room apartment where they lived with their two children. On May 8, 2013 they divorced and since then she was neither allowed in the house nor given the chance to meet with children. A.M. filed a lawsuit to the court asking a share from the common property. With its July 31, 2013 judgment of Khashuri regional court the claim was satisfied and the applicant was recognized as owner of ½ of the disputed property.

With assistance from GYLA’s office the abuser was prohibited from exerting verbal, physical or psychological violence against the victim of domestic violence

With assistance from GYLA’s office in Gori, N.K. jointly with her three minors was granted the status of the victim of domestic violence and they have been transferred in the shelter for victims of domestic violence. Nevertheless, N.K.’s husband continued to abuse her verbally and physically.

With August 27, 2013 decision Gori regional court satisfied N.K.’s application on issuing protective order. At the trial acts of violence were established and Gori regional court delivered a decision on issuing protective order for six months.

Accordingly, the abuser was prohibited from exerting verbal, physical or psychological violence against the victim.

**With the assistance from GYLA’s Ajara office, the citizen will receive compensation for the suffered damage**

GYLA’s Adjara officere presented R.N.’s interests in a court whose husband has died in a car accident. The truck involved in the accident was G.M.’s property and her sister was driving it as a trustee in the moment of the accident.

R.N., as a successor in title of the deceased, demanded compensation for the suffered damage in the court. Batumi City Court by its May 13, 2013 judgment satisfied applicant’s claim and D.A and G.N. were ordered to pay GEL 50,000 in favor of the applicant. The respondents have challenged the decision, however, on August 15,



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2013, during the trial in the appellate court, the applicants have refrained from the appeal. The court decision has entered into legal force.