

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



SUCCESSFUL CASES OF GYLA IN March

1. So-called “embryo case” has been completed successfully

As a result of legal assistance provided by GYLA's office in Tbilisi, a natural person has been restored in his right in relation to biological reproduction. The court held discussions on the realisation of the right to reproduction between the former spouses under the circumstances when one of the spouses loses the ability for natural reproduction and needs ancillary reproduction technology implying the use of the other spouse's gamete regardless of the refusal of the other spouse. In the case of this dispute, the gametes of both spouses have already been submitted to a clinic prior to their marriage, and an embryo has been developed that needed to be transferred to the surrogate's body, which was impeded by the refusal of the defendant spouse. By the court decision, the plaintiff was granted the right to unilaterally give consent to transferring the embryo to the surrogate's body.

2. With GYLA's help, one more refugee wins a court trial related to the allocation of accommodation

The refugee's interests were protected by GYLA's office in Tbilisi. The State merged the refugee's family with another large family and transferred them one apartment. After the apartment has been officially transferred, the beneficiary ceased to have the right to apply to the State, as a refugee, with a request to be provided with accommodation. As a result of the court trial, it was established that no written consent of the beneficiary had been obtained in the process of transferring the accommodation; in such circumstances, all acts adopted and the agreement entered into with regard to the transfer of the accommodation were declared void, pursuant to which the beneficiary's family was deemed provided with the accommodation, whereas the beneficiary's family has not actually received the accommodation. Following the court decision, the beneficiary has been provided with an opportunity to request accommodation from the State in accordance with the procedure established by legislation.

3. Property-related dispute has been completed in favour of a natural person

As a result of legal assistance provided by GYLA's office in Tbilisi, a dispute was completed successfully in favour of a natural person, with regard to whose own

residential house the Commission for the Recognition of Property had issued a property certificate to his neighbour. By the court decision, the decision on the recognition of property has been declared void and the Commission that was authorised to recognise property was assigned to review the request for the recognition of property anew.

4. With GYLA's help, one more unlawfully dismissed person has been reinstated

GYLA's office in Kutaisi represented I.G. before the court, who had been unlawfully dismissed from the position of manager of the NNLE Kutaisi Sporting Institutions Union by the order of the Mayor of Kutaisi of 2 November 2015. The bargain was made between the parties in the Kutaisi City Court and the order on the dismissal of I.G. was declared invalidated. I.G. has been reinstated in his position and the City Hall of Kutaisi has been imposed the payment of compensation for the down time in the amount of GEL 3660.

5. With GYLA's help, certain citizens have been able to retain ownership rights to their immovable property

a) Citizen N.K. applied to the Zugdidi Office of the National Agency of Public Registry with the request to verify the boundaries and the area of a land plot owned by him. The above mentioned agency suspended the registration proceedings because there was a coincidence, provided for by the Instruction, between the cadastral data of the immovable property submitted for registration and the one already registered in the Public Registry, which represented a state-owned agricultural land plot. Citizen N.K. applied to the Zugdidi District Court with GYLA's help and requested to declare void the decision issued by the Zugdidi Office of the National Agency of Public Registry, and to ensure the registration of his own immovable property with the verified area on the basis of his application submitted on 15 April 2014. By the decision of the Zugdidi District Court of 31 March 2015, N.K.'s claim has been fully granted, which has further been appealed by the opposing party. The decision remained in force by the decisions of both the court of appeals and the court of cassation, where the interests of N.K. were defended by GYLA's office in Kutaisi.

b) GYLA's office in Kutaisi defended the interests of citizens M.Sh. and S.Sh., whose immovable property had been registered unlawfully to other person by the Zugdidi Office of the National Agency of Public Registry. The Zugdidi District Court did not grant the claim of M.Sh. and S. Sh., which was further appealed with GYLA's help in a court of higher instance. The Kutaisi Court of Appeals entirely agreed with the views of the lawyer from GYLA's office in Kutaisi and invalidated the decision of the Zugdidi Office of the National Agency of Public Registry, on the basis of which the immovable property in question was re-registered to M.Sh. and S.Sh.

6. With GYLA's help, a perpetrator has been prohibited from carrying out verbal, physical and mental abuse towards the victims of domestic violence

On 24 March 2016, the Rustavi City Court granted the application of the victim of domestic violence N.G. for issuing a protective order. Her interests were defended in a court by the lawyer from GYLA's office in Rustavi. During the court proceedings the fact of violence by the spouse towards N.G. and her minor children has been proved. The Rustavi City Court has issued a protective order in favour of N.G. for the period of 5 months, and in favour of her minor children, for the period of 2 months. By the court decision, G.T. has been prohibited from carrying out verbal, physical and mental

abuse towards the victims, from contacting by telephone and coming close to their residential house and the school that the minor children attend.

7. With GYLA's help, an order imposing disciplinary liability on a public officer has been declared void

Citizen N.T. was working in the Gori Municipality in the position of the head of Human Resources Management Department. On 16 November 2015, the Gamgebeli (head of local government) of the above mentioned municipality issued an order imposing a disciplinary measure (in the form of warning) on N.T. due to failure to properly exercise his powers. According to the opinion of the Legal Department of the Gori Municipality Gamgeoba, N.T. was imposed liability for the unlawful appointment of one of the candidates participating in the competition announced by the Municipality. In particular, the applicant Ts.G. was appointed to the position of a senior specialist of the Administration Department in a manner that he had never submitted an application of that vacant position. Ts.G. had submitted an application for two vacant positions, with the requirements of one of which Ts.G. failed to comply based on the test results, whereas he overcame the test threshold for the other vacant position and was granted the right to move to the next stage of interviewing. The manner, in which the decision to appoint this candidate to office has been made, does not fall within the competence of N.T. Hence, N.T. decided to file a claim with a court, where his interests were defended by GYLA's office in Gori. During the court proceedings it was proved that N.T. has invited the candidate to an interview in an appropriate manner, as the latter complied with the requirements of the vacant position, for which he had applied; however, appointing him to a different position was outside N.T.'s competence and fell within the competence of the Commission. The court has fully granted the plaintiff's claim and invalidated the order imposing a disciplinary measure on the plaintiff.