

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Successful Cases of GYLA in February

### 1. GYLA's beneficiary, who is an IDP, won a dispute against the government of Georgia over registration of property in Abkhazia

GYLA's office in Tbilisi represented I.K. who was displaced from Abkhazia. I.K. was request that the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) pre-register the real estate that he was forced to abandon in Abkhazia under his name at the Public Registry, based on the Presidential Decree no.326 adopted in 2011.

By the decision of the Government of Georgia, the Ministry would be authorized fulfill the request only after the Task Force for Restitution of Real Estate on the Occupied

Territories of Georgia (the Task Force) prepared its proposals and recommendations.

I.K. believed that his rights were violated because pre-registration of his property at the Public Registry depended on proposals and recommendations to be prepared of the Task Force, which delayed the registration and violated his interests.

GYLA helped I.K. apply to court. The court delivered a very interesting and important ruling. In his ruling the court stated, “the institute of pre-registration of real estate on the occupied territory at the Public Registry was created to allow legal protection of property rights of displaced persons over real estate on the occupied territory, before the territorial integrity of Georgia is restored, and to guarantee eventual registration of property rights of IDPs before restoration of Georgia’s factual ruling on the occupied territory.” The court stated that the decree of the Government of Georgia ordering the Task Force of the MRA to prepare proposals and recommendations and send them to the Public Registry was unfounded and the scope or purpose of the Task Force’s activities was not clear. In addition, postponing enforcement of a sublegal normative act was against the basic principle of rule of law, because an administrative agency is obligated to abide by requirements of the law and ensure its enforcement. Therefore, the court granted I.K.’s claim and invalidated the disputed part of the resolution of the Government of Georgia.

## **2. GYLA’s beneficiary, who was placed under administrative detention during the so-called “raids”, was released from administrative liability**

GYLA’s office in Tbilisi was represented an individual detained during special police measures – the so-called “raids” in Tbilisi, on February 19, 2016. He was arrested while trying to capture special police measures in progress on a video camera. Drug test administered at a clinic found that he was not under the influence of drugs. Nevertheless, the police prepared a protocol over offences foreseen by Article 45 (use of drug substance without prescription) and Article 183 (verbal abuse of a law enforcement officer) of the Code of Administrative Offences of Georgia.

During a trial the police failed to present any evidence that would prove the offence. It was established that law enforcement officers, despite direct stipulations of Article 24 of the Law of Georgia on Police, failed to record police measures on a video camera; neither did they provide any evidence to prove the offence in question.

Administrative proceedings under Article 45 of the Code of Administrative Offences

were terminated for lack of evidence, while with regards to article 173 of the Code the court issued a verbal warning only and released the defendant from administrative liability.

### **3. GYLA's beneficiary received a compensation for damage from administrative agencies**

GYLA's office in Tbilisi represented a person affected by the developments in December-January 1991-1992 in Tbilisi, whose house was destroyed by fire. Following the developments, a commission for public control of fulfillment of the state program for rehabilitation of Tbilisi-dwellers was established. For years the commission gradually fulfilled its obligations before the applicant until it stopped paying the compensation in 2011. Subsequently, the applicant filed in court. The court ordered Tbilisi Municipality City Hall and the Ministry of Finance of Georgia to pay compensation for damages suffered by the applicant, based on re-calculation of the loss by Tbilisi City Hall.

### **4. GYLA's beneficiaries dismissed from work without any legal cause were restored to their positions**

a) GYLA's office in Gori represented Z.A., who was dismissed from his office of Deputy Gamgebeli of Gori Municipality for disciplinary violation. Court granted Z.A.'s claim and restored him to his position. Notably, as a result of local self-government reform in 2014, Gori Municipality was divided into two municipalities and two self-governing entities were created – Gori Municipality City Hall and Gori Municipality Gamgeoba of self-governing community. The latter refused to implement the court's ruling, stating that it was not a legal successor of the previously existing self-government. GYLA's lawyer filed another lawsuit in court, on behalf of Z.A. The court granted Z.A.'s claim and recognized Gori Municipality Gamgeoba as a legal successor of the previously existing self-government, which made it possible to enforce Gori District Court's decision of 8 October 2013 about restoration of Z.A. to his position.

b) GYLA's office in Ozurgeti represented M.A. who worked as a director of a non-profit organization Central Stadium of Ozurgeti Municipality. Under the decree of the Mayor of Ozurgeti Municipality, he was dismissed without any legal cause. By February 3, 2016 decision, M.A. was restored to his office, while Ozurgeti Municipality City Hall was ordered to pay compensate him for the time he was forced to miss at work.

**5. Beneficiary of GYLA's office in Kutaisi, who was forced to work without compensation, received a compensation for his work**

GYLA's office in Kutaisi represented M.M. in court. He did not receive a compensation for his work at the office of the Representative of Samtredia Municipality Gamgebeli. His employer refused to pay stating that M.M. was working as a specialist on a voluntary basis.

The parties were able to reach a settlement. As a result, the employee received a compensation of 2700 laris.

**6. With the help of GYLA's office in Rustavi, a perpetrator was prohibited from abusing victims of domestic violence verbally, physically and psychologically.**

On February 23, 2016, Rustavi City Court granted a request of R.B., a victim of domestic violence, for a protective order. R.B. was represented by a lawyer from GYLA's office in Rustavi in court. During the hearing, it was established that R.B. and her minor daughter were abused by J.B., the husband of R.B. After examining and evaluating circumstances of the case, Rustavi City Court decided to issue a protective order against the perpetrator. By the court's decision, J.M. was prohibited from abusing the victims of domestic violence verbally, physically and psychologically, from approaching their home or contacting them via phone. The order was issued for the period of six months.