

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Successfully Litigated Cases in December

**With assistance of Lawyers from GYLA's Tbilisi office, five individuals received monetary compensation (each GEL 12000) for illegal restriction of liberty**

Five citizens of Russian Federation were arrested by Georgian authorities in different times. Criminal cases were initiated against them and plea agreements were made. Afterwards they should have been discharged from the court room immediately, though they were imprisoned by the state for 4 months without any legal grounds.

Being released from the prison, they applied to the court with GYLA's assistance and claimed compensation for the damage for illegal imprisonment. At the trial the Ministry of Interior and the applicants have negotiated on provision of lump sum compensation to the applicants. The negotiation was approved by the court and consequently, each applicant received GEL 12000 from the Ministry of Interior as a compensation.

**With assistance from GYLA's Tbilisi office the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees was ordered to compensate to the IDP S.M., USD 10,000 (equivalent in national currency)**

S.M. is an internally displaced person from Akhlagori. Though his family was included in the list of individuals who were entitled to compensation instead of the newly constructed buildings for IDPs, the Ministry refused to allocate the compensation. With assistance of a lawyer from GYLA's Tbilisi office, S.M. filed a lawsuit against the Ministry in 2011. The long dispute finally ended in his favor and the ruling of Tbilisi Appellate Court entered into legal force. As a result, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees was ordered to pay USD 10000 (equivalent in national currency).

**With assistance from GYLA's Tbilisi office the beneficiary was relieved of administrative liability**

In August 2013, patrol police officer drafted the protocol of violation to I.B. as per Para.4, Article 116 of the Administrative Code of Offences (driving of motor vehicle under alcohol influence repeatedly). It should be noted that (for delay of the evacuator) I.B. was disallowed to conduct alternative expertise within two hours terms established by law and to confirm that he was sober. The expertise was conducted with an hour and a half delay and no alcohol influence was observed.

I.B. appealed the protocol of violation in the department of the patrol police, which invalidated it, in the part of Para.4, Article 116 of the Code of Administrative Offence, yet it indicated that the report remained in force in the part of violation of the traffic rules, though no report of violation was drafted on the fact. Later on, in October 2013, electronic penalty bill was issued additionally as per Article 125, 62 (violation of the

traffic rules).

The electronic bill issued in violation of the law and the resolution of the patrol police were challenged in the court, that fully upheld the submitted complaint and invalidated the acts issued in violation of the law. In view of above, administrative proceeding was terminated for absence of the administrative offence.

**With assistance from GYLA's Tbilisi Office, the citizen won a case against LEPL social service agency**

With assistance from GYLA's Tbilisi office, the applicant R.M. won the case against Vake-Saburtalo Social Service Center of the LEPL Social Service Agency. The subject of the dispute was invalidation of the individual administrative act (by which the allowance was terminated to R.M.) and compensation for the outstanding allowance. Tbilisi City Court satisfied both claims. Accordingly, the act which terminated allowance was invalidated and the respondent was ordered to pay compensation to R.M. in the amount of GEL 180.

**With assistance of a lawyer from GYLA's Dusheti office, criminal persecution was terminated against GYLA's beneficiary**

The lawyer from GYLA's Dusheti office protected G.B.'s interests in the course of investigation and court examination. He was arrested by the employees of the Ministry of Interior for cultivation of the plant containing narcotic substance (offence envisaged as per Para.2, Article 265 of the Criminal Code).

The defense has obtained evidences (witness testimonies and photo materials), which confirmed G.B.'s innocence. During the first appearance of a defendant in a court, the judge refused to grant prosecutor's motion on ordering the bail as a preventive measure. Instead the court satisfied the motion of the defense on leaving the defendant without the preventive measure.

Before holding the pre-trial hearing, on the bases of the evidences submitted by the defense (witness testimonies and photo materials) the prosecution terminated criminal proceeding for absence of the act envisaged by the Criminal Code.

**With assistance from GYLA's Kutaisi branch, the terminated lease relationship was restored among P.M. and LLC set up with 100% state participation**

The lawyer from GYLA's Kutaisi branch litigated P.M.'s civil case in Kutaisi Appellate Court. On April 26, 2011 P.M. made lease agreement with LLC set up with 100% of state participation. As a result, without bidding, P.M. received in usage for five years term LLC's land plot. On January 1, 2013, however the lease agreement was terminated with P.M. under the order of J.Z., director of the company. As reported, the transfer of the property was implemented without the bidding and consensus of the government of Georgia and it served as the bases for termination of the agreement.

With GYLA's assistance, P.M. applied to the court and claimed invalidation of the director's order and restoration of the contractual terms. The civil board of Kutaisi Appellate Court completely shared the position of the applicant's lawyer that government's consensus was not necessary for transfer of the company's property to P.M. under the lease agreement.

**With assistance of a lawyer from GYLA's Kutaisi branch the individual was relieved of administrative liability**

With November 16, 2013 resolution of Kutaisi City Court, G.M. was found administrative offender as per Article 1971 of the Administrative Code of Offences for failure to appear before the Enlistment Office in an attempt to evade military service. The latter had been ordered to pay fine in the count of GEL 1000.

With assistance from GYLA's Kutaisi branch, G.M. challenged the resolution in the Appellate Court. Under December 12, 2013 resolution of the Administrative Board G.M. was relieved of administrative liability; instead, verbal reproof was issued. The court fully shared the defense's position that A.G. had committed petty administrative offence.

**With assistance from GYLA's Kutaisi branch, one more citizen was relieved of administrative liability**

The lawyer of GYLA's Kutaisi branch protected G.T.'s interests in the court, who was

found administrative offender as per Para 1. Article 123 of the Administrative Code of Offences (leaving of the site of car accident) and was deprived of the driving license for 12 months. With assistance from GYLA's Kutaisi branch, G.T. challenged the resolution in Senaki regional court. According to the court resolution, the case of administrative offence was terminated against G.T. The court fully shared the position of the defense that case materials did not confirm the fact of committing offence by G.T. and the case was terminated for absence of the administrative violation.

**With Assistance of a lawyer from GYLA's Kutaisi branch protective order was issued to the victim of domestic violence**

The lawyer of GYLA's Kutaisi branch represented interests of M.G.'s the victim of domestic violence, in the administrative case in Kutaisi city court. Kutaisi City Court satisfied M.G.'s application on issuing protective order and G.Sh., ex-husband of the applicant was prohibited to approach the house or working place of the applicant, as well as to communicate with her via mobile phone or SMS messages.

The court fully shared the position of the applicant in terms of the inflicted physical and psychological violence from the side of the respondent.

**With assistance from GYLA's Kutaisi office, the civil servant dismissed from the office was compensated for the missed salary and was appointed on the position of the financial manager based on negotiation act**

GYLA's Kutaisi branch represented interests of L.L. the former head of the office of Tskhaltubo municipality local council, dismissed from the position on June 28, 2013 under the order of the head of the local council.

By the December 13, 2013 ruling of the Administrative Board of Kutaisi Appellate Court, the negotiation act was approved between the parties and upon the consent of Tskhaltubo municipality local council L.L. was compensated for the missed salary and labor contract was made with her on the position of the financial manager in one of the LLC.-s set up by Tskhaltubo municipality local council.

**With assistance of a lawyer from GYLA's Kutaisi branch, the court reduced the fine of GEL 1000 to GEL 300 to the journalist**

The lawyer of GYLA's Kutaisi branch litigated O.M.'s administrative case in the court. The applicant TV Company "R" demanded to fine the journalist O.M. GEL 1000 (contract envisaged compensation) for moving in the competitor TV Company. Kutaisi City Court fully satisfied the applicant's demand and the journalist was ordered to pay GEL 1000 to the company. With assistance of a lawyer from GYLA's Kutaisi branch, O.M. challenged the decision of the first instance court. The Civil Board of the Appellate Court shared O.M.'s appeal partially and ordered to pay GEL 300 instead of GEL 1000.

The Appellate Court shared the position of the respondent's lawyer that the fine of GEL 1000 envisaged by the Labor Contract was not commensurate to the paid salary (O.M.'s salary equaled GEL 250) and reduced the sum to the reasonable amount.

**With assistance from GYLA's Kutaisi Branch, protective order was issued to the victim of domestic violence**

The lawyer of GYLA's Kutaisi office represented interests of the applicant Sh.G in administrative case before Kutaisi City Court. The court satisfied Sh.G.'s application on issuing protective order and her husband G.B. was prohibited to get near Sh.G.'s house or the working place, as well as to communicate with her via the mobile phone or SMS messages.

The court fully shared the position of the applicant in terms of the inflicted physical and psychological violence from the side of the respondent.

**With assistance from GYLA's Rustavi Office, the internet publication presage.tv will receive requested public information**

GYLA's Rustavi office has been protecting interests of the internet publication presage.tv and its journalist M.B. They have applied to Rustavi Local Council with a request of public information and requested information about renovation of the vehicle fleet of the Rustavi local self-governance. In particular, they needed information about the number of vehicles procured by Rustavi local council in 2011, their cost and make of cars, as well as about the amount of issued bonuses and civil servants who received them. Rustavi local council refused to issue public information

and the decision was challenged in Rustavi city court. Rustavi city court, as well as Tbilisi Appellate Court did not satisfy request of the internet publication presage.tv on disclosure of public information. On May 30, 2013 the Supreme Court annulled the ruling of Tbilisi Appellate Court of April 25, 2012 and remanded the case to the court.

In its new decision, Tbilisi Appellate Court fully upheld the lawsuit of the applicant and Rustavi local council was ordered to disclose requested public information with indication of bonuses, employees who received the bonuses and relevant dates. In addition, the applicant was ordered to disclose information about the number of procured vehicles, make of cars and the cost paid on them. Moreover, Rustavi Local Council has to compensate for all state tax paid in all instance courts by the applicant. The enforcement order has been issued already.

**With assistance of a lawyer from GYLA's Gori office, the beneficiary returned back his driving license**

GYLA's Gori office protected Z.A.'s interests in administrative proceeding. For failure to pay the fine within the established deadline the penalty was substituted by taking away the driving license. He, however, was unaware of being considered administrative offender as per Para.1, Article 125 of the Administrative Code of Offences (violation of traffic rules by the driver of a motor car) since the relevant resolution was not submitted to him according to the established terms.

With assistance from GYLA's Gori office, Z.A. challenged the decision to the superior administrative agency. The Ministry of Interior shared completely position of the author of the complaint that patrol police department fell short to investigate factual circumstances of the case, Z.A was not involved in administrative proceeding and the resolution of fining him was not submitted to him according to the rules established by legislation.

In view above, by the December 12, 2013 decision the Ministry of Interior satisfied Z.A.'s complaint and he returned back the driving license.

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