

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Successfully Litigated Cases in July

### Beneficiary was found not guilty

Lawyer of GYLA  office in Tbilisi was protecting interests of V.Sh.. He had been found guilty by the first instance court under Article 220 of the Criminal Code of Georgia (abuse of managing, representative or other special authority in an enterprise or other organization to the detriment of the legal interests of this organization, for the purpose of obtaining a benefit or advantage for himself/herself or for someone else, resulting in significant damage. He had been ordered to 2 (two) years and 6 (six) months of deprivation of freedom as a form of punishment, as well as a fine in the amount of 100 000 laris as a form of additional punishment.

With the assistance of GYLA [ ] lawyer the decision was appealed in the appellate court, seeking that V.Sh. be found not guilty and verdict of not guilty be delivered. Tbilisi Appellate Court granted the appeal and delivered the verdict of not guilty.

### **Convict was released from punishment**

GYLA was defending interests of convicted K.Ts., who had been sentenced to 11 years and 3 months of imprisonment as a type of punishment. Even though at the time of committing the crime K.Ts was not considered to be previously convicted, court referred to him as a convicted person and in light of the aggravating circumstances he was sentenced to a more severe type of punishment. Lawyer of GYLA [ ] office in Tbilisi filed a motion in the appellate court seeking review of the punishment in light of the new evidence. The lawyer submitted evidence proving that at the time of committing the crime K.Ts. had his prior criminal record expunged. The lawyer was seeking commutation of the punishment imposed. Tbilisi appellate court granted the claim of GYLA [ ] lawyer, applied the principle of absorption and ordered immediate release of the convict from the correctional facility.

### **Beneficiary was not ordered to deprivation of liberty**

Lawyer of GYLA's office in Tbilisi was defending interests of T.Ts. charged for theft. During the trial the defense requested use of a suspended sentence instead of deprivation of liberty. Tbilisi City Court sentenced T.Ts. to 3 years and 6 months of suspended sentence instead of deprivation of liberty.

### **Labor dispute filed on behalf of several individuals was successfully adjudicated. Some applicants were restored to their previous positions, while others were compensated for their wage arrears**

1. M.G. had been serving as associated professor at the department of business in Iliia State University since 2010. He had been appointed to the office based on a competition, for the term of three years. He had also been serving as a deputy dean of the department since 2011.

On August 7, 2012, under orders of the University Rector, he was dismissed from both

of his positions. Planned reorganization of the department was cited as the reason. With the assistance of lawyer from GYLA [ ] office in Tbilisi, M.G. filed in court, requesting annulment of the orders, restoration to his previous positions and compensation for the time he was forced to miss.

Following a lengthy dispute the court ruled in favor of M.G. The orders were recognized as illegal and the applicant was restored to his previous positions, while Ilia State University LEPL was ordered to pay salary in compensation for the time the applicant had been forced to miss after his dismissal.

2. GYLA [ ] office in Dusheti was protecting interests of N.Ts., who had been working as a specialist at the administrative department of Mtskheta Mtianeti Regional Forestry Division of the Forestry Department of the Ministry of Environment and Natural Resources since 2009. On November 14, 2014, under the order of the head of the agency, her labor contract was terminated and lack of appropriate qualification and professional skills was cited as grounds for the dismissal. No relevant evidence was provided. With active participation of lawyer from GYLA [ ] office in Dusheti, an agreement was reached between the applicant and the respondent and on July 11, 2014, N.Ts. was restored to the position of analyst at the Mtskheta Mtianeti Forestry Service of the National Forestry Agency LEPL on July 11, 2014.

3. GYLA [ ] office in Ozurgeti was defending interests of L.B., T.G. and others (total of 146 individuals) in court, who had been hired based on a labor contract in offices of an LLC in Chokhatauri and Lanchkhuti. With assistance from lawyer of GYLA [ ] office in Ozurgeti, they filed in court demanding their unpaid salary arrears.

The court fully granted the claim and ordered Aditi LLC to compensate for the unpaid salary arrears, as well as for every single day that workers had been forced to miss, total of 124 110 laris.

4. GYLA [ ] office in Telavi provided legal assistance to N.I. and others (total of 17 individuals), who had been hired based on a labor contract by Energy First LLC. They filed in court demanding their unpaid salary arrears. The court fully granted their claim and ordered Energy First LLC to compensate for the unpaid salary arrears, total of 28 738 laris.

## **Housing dispute was settled in favor of IDP beneficiaries**

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With assistance of lawyer from GYLA [ ] office in Tbilisi, housing dispute was settled in favor of N.K. and M.M., displaced following the 2008 August War.

In 2012, the Ministry of Economy and Sustainable Development provided a housing space in Bazaleti to M.M., N.K. and N.M. based on a sales contract, for the purpose of providing a housing space. The contract was signed by N.M. and he was ordered to provide housing for M.M. and N.K. At the time the contract was concluded, the parties did not live as a family. The contract had also been signed in violation of applicable legal regulations and procedures; parties were no informed and engaged in administrative proceedings; they had not expressed their will to sign the particular contract. They were also losing their right to request adequate housing.

With GYLA [ ] assistance the IDPs filed in court. The court granted the claim of N.K. and M.M. in part. The part of the resolution of the President of Georgia that applied to N.K. and M.M. was deemed null and void, and the government of Georgia was ordered to issue a new administrative-legal act after examining and assessing relevant essential facts.

## **Beneficiaries were granted the status of IDP**

1. GYLA ☐ office in Gori was protecting interests of B.G. and Kh.P. of Gugutiantkari Village (Gori District) before court. Following the 2008 war between Russia and Georgia, the state of Georgia lost control of the part of Gugutiantkari Village where houses of V.G., Kh.P. and D.G. were located. Even though these houses do not fall within the borders of the territory recognized as occupied by the Georgian authorities, V.G., Kh.P and D.G. are not allowed to go back to places of their habitual residence and have lost access to their property. An occupation line was drawn by Russian militaries nearby, 50 meters from their houses, which is why they no longer feel safe. V.G. Kh.P. and D.G. have found themselves in the same exact situation as citizens displaced from former South Ossetia and Abkhaza. Nevertheless, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia did not review their application for IDP status within the period of one month, as prescribed by applicable law. The beneficiaries filed in court against the Ministry with GYLA ☐ assistance, requesting that the court compel the Ministry to deliver a decision about their IDP status. The Ministry granted the beneficiaries with the IDP status while the case was in progress. Therefore, the beneficiaries withdrew their claim and are now entitled to all social benefits associated with IDP status.

2. GYLA ☐ office in Gori was defending interests of several individuals in administrative proceedings at the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. They lived in villages of Gugutiantkari and Dvani in Gori Municipality. In May 2013 Russian militaries installed barbed wire in their villages. As a result, they have lost access to their property. The beneficiaries applied to the Ministry with the help of GYLA, requesting status of IDP. The Ministry granted their claim and in July 2014 they received IDP status.

### **Individual entrepreneur relieved from paying tax liability**

Lawyer of GYLA ☐ office in Kutaisi was defending interests of one an individual entrepreneur, who had filed against the tax liability accrued on him. According to the Revenue Service, he was liable of paying 26255.46 laris in taxes and 53990.22 laris in fine. Complaint filed by GYLA ☐ lawyer in court was granted in part and the Revenue Service was ordered to re-examine the issue. The tax authorities delivered a new decision abolishing the tax liability accrued on the entrepreneur. He was relieved from paying the total amount of 80245.68 laris.

## **Offender was prohibited from perpetrating verbal, physical and psychological violence against victim of domestic violence**

On July 2, 2014, Kutaisi City Court granted the claim of A.Gh. for issuing a restraining order. Her interests before court were protected by lawyer of GYLA [ ] Office in Kutaisi. During the trial it was established that A.Gh. had been subjected to violence by her former spouse Z.Ts. Kutaisi City Court delivered a resolution for issuing a restraining order against the offender. Z.Ts. was prohibited from perpetrating verbal, physical and psychological abuse against the victim, from approaching her home and from contacting her over the phone. The restraining order was issued for the period of 2 months.

## **Beneficiaries relieved from administrative liability**

1. GYLA [ ] office in Adjara was defending interests of G.D., who had been illegally fined by Batumi City Hall [ ] supervision service with a fine of 3 thousand laris. The service cited illegal construction and rehabilitation works on the property of G.D. as grounds for imposing a fine.

Both the first instance court and the appellate court completely upheld the claim of the defense that the supervision service had violated stipulations of Georgian law. Consequently, the court deemed the resolution of administrative agency imposing a fine of 3 thousand laris on G.D. as null and void.

2. With the help of lawyers from GYLA [ ] offices in Kutaisi and Telavi, two individuals were released from administrative liability. GYLA [ ] lawyers filed against electronic fine receipts in court. The defense claimed that evidence did not prove commission of administrative offence. Consequently, court ordered termination of proceedings in both cases, as there was no administrative offence involved.

## **GYLA helped protect interests of minors**

1. Lawyer of GYLA [ ] office in Gori was protecting interests of N.G. before court, who is in a non-registered marriage of I.A. N.G. filed in court requesting recognition of I.A. as a father of his child E.G. and imposition of alimony. Gori District Court recognized I.A. as a father of E.G. and ordered him to pay monthly alimony in the amount of 160 laris.

2. A mother filed in Tbilisi City Court with the help of GYLA for protecting interests of her child. She requested renewal of proceedings concluded under the legally enforced

decision dated 2008 in light of the new circumstances, establishment of paternity, imposition of alimony and giving the child the surname of his father, as well as compensation for expenses made for the proceedings since 2008. To secure the claim the plaintiff requested seizing of movable and immovable property (6 vehicles).

The court renewed the proceedings in light of the new circumstances, main hearing was held and the claim was fully granted. Paternity was established for a minor, G.O. and his father was ordered to pay alimony in the amount of 120 laris per month from 2008 until the child reached age of majority. The child also received his father's surname.

3. GYLA's office in Kutaisi was defending interests of P.Gh before court, who filed in Samtredia District Court requesting sole custody of his children. The court granted the claim and in best interests of the children, it gave the father sole custody.

### **Beneficiary received copy of the state document certifying education**

GYLA's office in Gori was defending interests of a displaced person, V.K., whose house was burnt down during the 2008 war between Russia and Georgia. The fire destroyed the document certifying his completion of secondary education. Dvani public school as well as the Ministry of Education and Science, Agency for the Development of State Services and the National Center for the Development of Quality of Education refused to provide copy of the certificate. He filed a claim for recognition in Khashuri District Court and demanded recognition of the fact that he went to the school of Dvani Village in Gori District in 1996-2007. The court's decision recognized that in 1996-2007 V.K went to school of Dvani Village. Based on the decision of the court, on July 15, 2014, the Ministry of Education and Science issued a copy of the document certifying V.K.'s completion of secondary education.