

SUCCESSFUL STRATEGIC LITIGATION

PROMOTING RULE OF LAW IN GEORGIA (PROLoG)

JUNE 2015 – SEPTEMBER 2020

Under the USAID/PROLoG Legal Aid Grant Program, local NGOs provide free legal aid to increase access to justice for women and minority groups (religious, ethnic and LGBTQ community) through strategic litigation in Georgia's common courts, the Constitutional Court of Georgia, and international bodies.

Between June 2015 and September 2020, USAID/PROLoG's grantees provided services that significantly improved human rights and access to justice in various areas:

81,649

LEGAL CONSULTATIONS

12,549

COURT REPRESENTATIONS

390

FIELD VISITS

37

SUCCESSFUL CASES/PRECEDENTS

RIGHTS OF RELIGIOUS MINORITIES

- The Constitutional Court declared discriminatory articles of the Tax Code unconstitutional, providing that the building, restoration and painting of temples and churches ordered by the Patriarchate of the Georgian Orthodox Church (GOC) is exempted from the value-added tax.
- The Constitutional Court declared unconstitutional provisions of the Law on State Property providing that only the GOC could receive state property free of charge.
- Tbilisi City Court, Court of Appeals and the Supreme Court of Georgia all ruled it discriminatory and unlawful to limit construction permits for houses of worship by religious organizations, and held that obtaining non-compulsory documents, such as construction permits from the State Agency for Religious Issues, cannot be a precondition for construction permits.
- The Public Defender recommended the Ministry of Education, Science, Culture and Sports of Georgia to make changes in the regulatory act of the Unified National Examinations that will allow consideration of religious needs in the process of organizing the Unified National Examinations.

WOMEN'S RIGHTS

The Supreme Court established the practice of ordering the state to pay moral damages in cases of femicide, where law enforcement failed to prevent discrimination based on gender, and its obligation to defend citizens' lives.

PERSONAL DATA PROTECTION

The Constitutional Court abolished the Ministry of Internal Affairs' practice of permanently maintaining records of administrative violations.

RIGHTS OF THE CHILD

- Tbilisi City Court, taking into account the child's best interest, ruled in favor of the litigant requesting a child-centered approach under the anti-COVID-19 measures imposed by the Government of Georgia. The court invalidated the Emergency Coordination and Assistance Centre's actions enforcing the mandatory quarantine of all people entering the country from abroad. The court allowed the litigant to stay in self-isolation at her apartment to ensure a child-friendly environment, instead of staying in the quarantine zone after arrival into the country.
- Tbilisi Court of Appeals set a precedent, stating that referring to a parent in a negative context by another parent in the presence of children is psychological violence.

AGE DISCRIMINATION

The Ombudsman found that the insurance company "Ardi," internal policy, which set 70 years of age as grounds for refusing to provide service, without assessing individual health condition, was discriminatory.

DISCRIMINATION BASED ON SEXUAL ORIENTATION AND OCCUPATION

The Public Defender of Georgia found discrimination based on sexual orientation and occupation against Akaki Tsereteli Batumi Public Library and Batumi Shota Rustaveli State University and recommended they develop internal policies on prohibiting and preventing discrimination, and to conduct future activities in accordance with the principle of equality.

DISMISSAL FROM PUBLIC SERVICE

The Constitutional Court declared unconstitutional the reinstatement of a terminated individual as a precondition for receiving compensation for lost salary due to wrongful termination. As a result, unlawfully dismissed public officials will receive compensation whether or not they are reinstated.

RIGHTS OF FOREIGNERS

As the result of complaints filed with the National Bank of Georgia and the Public Defender's Office of Georgia, non-citizens living in Georgia may now open bank accounts in Georgian commercial banks, a right that many were denied as a result of discriminatory treatment on the basis of being considered high-risk clients.

DUE PROCESS RIGHTS IN ADMINISTRATIVE OFFENCES

- The Constitutional Court declared unconstitutional the provision of the Administrative Offences Code of Georgia that set a 10-day time limit to challenge a conviction of a person found guilty of committing an administrative offense, as the time is calculated from the moment of announcement of the operative part of the decision rather than the moment of serving the reasoning part to the party.
- The Constitutional Court declared unconstitutional and void restrictions set on the right to appeal penalties imposed by trial courts under the Code of Administrative Offenses.
- The Constitutional Court of Georgia declared unconstitutional the provision of the Administrative Offences Code of Georgia that prohibited the temporary placement of a banner, slogan or poster by an owner or with the owner's permission on their property as a means of spontaneous protest.

DUE PROCESS RIGHTS IN CRIMINAL JUSTICE

- The Constitutional Court declared unconstitutional the part of Article 56 (5) of the Code of Criminal Procedure, which prohibited the right of appeal of a person reported to be a victim of less grave or particularly grave crimes, upon the superior prosecutor's denial.
- The Supreme Court ruled that a person bears an obligation to observe due standard of care, follow written and unwritten norms especially in specific circumstances (e.g. in an extreme sport) to avoid risk of accident. Violation of this standard constitutes a crime committed with negligence.